



LAW
KF
3775
A3
1968

90th Congress }
2d Session }

COMMITTEE PRINT

KF
3775
.43
1968

COMPILATION OF SELECTED PUBLIC HEALTH LAWS

INCLUDING PARTICULARLY THE PUBLIC HEALTH
SERVICE ACT, THE CLEAN AIR ACT, THE
SOLID WASTE DISPOSAL ACT, THE
MENTAL RETARDATION FACILITIES AND COM-
MUNITY MENTAL HEALTH CENTERS
CONSTRUCTION ACT, AND THE NARCOTIC
ADDICT REHABILITATION ACT

PREPARED BY THE
SUBCOMMITTEE ON HEALTH
OF THE
COMMITTEE ON LABOR AND
PUBLIC WELFARE
UNITED STATES SENATE



MARCH 1968

Printed for the use of the Committee on Labor and Public Welfare

U.S. GOVERNMENT PRINTING OFFICE

89-774 O

WASHINGTON : 1968

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FOREWORD

This compilation has been prepared for use by the Senate Committee on Labor and Public Welfare in reviewing and evaluating current legislative proposals in the field of "public health and quarantine," which is one of the major areas within the committee's legislative jurisdiction. Since many legislative proposals in this field are in the form of proposed amendments to the Public Health Service Act or to related public health laws, it is necessary to have in readily available form an up-to-date compilation of these basic health laws. Such a compilation should also be useful to other congressional committees with related legislative jurisdictions, as well as to various public and voluntary agencies and groups affected by or interested in Federal legislation in this field.

Included in the compilation are the Public Health Service Act, as amended, which is the most comprehensive Federal law relating to public health; the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended; the Clean Air Act, as amended; the Solid Waste Disposal Act; the Narcotic Addict Rehabilitation Act of 1966; and several other laws pertaining to Indian Health or to mental retardation. In addition, the compilation includes Reorganization Plan No. 1 of 1953 and Reorganization Plan No. 3 of 1966, which effected major changes in the administrative structure and distribution of health functions within the Department of Health, Education, and Welfare. In each case, the statutory provisions as printed in this compilation include all amendments enacted through the first session of the 90th Congress. Thus, they represent statutory provisions in effect in January of 1968.

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**PUBLIC HEALTH SERVICE ACT,
AS AMENDED**

(1)



PUBLIC HEALTH SERVICE ACT, AS AMENDED

Note.—Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General, and other officers of the Public Health Service, to the Secretary of Health, Education, and Welfare. While the language of this Act was not formally amended by the provisions of Plan No. 3, its provisions should be read in the light of this transfer of statutory functions.

TITLE I—SHORT TITLE AND DEFINITIONS

SHORT TITLE

42 U.S.C. Note

SEC. 1. Titles I to IX inclusive, of this Act may be cited as the "Public Health Service Act".¹

DEFINITIONS

SEC. 2. When used in this Act—

42 U.S.C. 20

(a) The term "Service" means the Public Health Service;

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c) The term "Secretary" means the Secretary of Health, Education, and Welfare;²

(d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that as used in section 361(d) such term means a State, or the District of Columbia;³

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

¹ Sec. 1 was amended by sec. 3(a) of P.L. 89-239, to add title IX to the eight titles of the P.H.S. Act.

² As presently in force, this subsection reads as follows:

"(c) The term 'Administrator' means the Federal Security Administrator." Reorganization Plan No. 1 of 1953, 67 Stat. 631, abolished the Office of Federal Security Administrator, and, effective April 11, 1953, all functions of that Office were transferred to the Secretary, Department of Health, Education, and Welfare. For convenience of persons using this compilation, the subsection has been restated as set out above, and each reference in this Act to "Administrator" has been changed to read "Secretary".

³ Subsec. 2(f) amended by subsec. 31(a) and subsec. 47(d) of P.L. 86-70, effective January 3, 1959; and further amended by subsec. 29(a) and subsec. 47(f) of P.L. 86-624, effective August 21, 1959.

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts and preparations; opiates (as defined in section 3228(f) of the Internal Revenue Code);⁴

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;⁵

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;⁶

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;⁶

(n) The term "heart diseases" means diseases of the heart and circulation;⁷

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth;⁷ and

(p) The term "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.⁷

⁴ Subsec. (j) was amended by sec. 3 of the National Mental Health Act (P.L. 487, 79th Congress) and was further amended by P.L. 425, 80th Congress.

⁵ Subsec. (k) was amended by sec. 3 of the National Mental Health Act, P.L. 487, 79th Congress.

⁶ Subsecs. (l) and (m) were added by sec. 3 of the National Mental Health Act, P.L. 487, 79th Congress.

⁷ Subsecs. (n) and (o) amended, and subsec. (p) added by sec. 5 of P.H.S. Commissioned Corps Personnel Act of 1960 (P.L. 86-415).

TITLE II—ADMINISTRATION

PUBLIC HEALTH SERVICE

42 U.S.C. 202

SEC. 201. The Public Health Service in the Department of Health, Education, and Welfare shall be administered by the Surgeon General under the supervision and direction of the Secretary.

ORGANIZATION

42 U.S.C. 203

SEC. 202.^{7A} The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes⁸ of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes⁸ of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time, abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes⁸ of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

COMMISSIONED CORPS

42 U.S.C. 204

SEC. 203. There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1923,⁹ as amended. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regu-

^{7A} The organizational units specified in this section were all abolished as *statutory* entities by Reorganization Plan No. 3 of 1966 which is printed in full in the Appendix.

⁸ Sec. 202 was amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding an "s" to Institute.

⁹ The Act of August 28, 1949, 63 Stat. 972, directs that this reference shall be held to mean the Classification Act of 1949.

lar Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps.¹⁰

42 U.S.C. 205

SURGEON GENERAL

SEC. 204. The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General.

42 U.S.C. 206

DEPUTY SURGEON GENERAL AND ASSISTANT SURGEONS GENERAL

SEC. 205.^{10A} (a) The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes ¹¹ of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 204 and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty

¹⁰ Sec. 2 of P.L. 425, 80th Congress amended sec. 203 by deleting the last sentence thereof.

^{10A} Reorganization Plan No. 3 of 1966 (printed in the Appendix of this compilation) abolished as *statutory* positions several of the positions enumerated in this section—Deputy Surgeon General, Director of the National Institutes of Health, Chief of the Bureau of State Services, Chief of the Bureau of Medical Services.

¹¹ Subsec. (b) was amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding an "s" to Institute.

days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.¹²

(d) The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General.¹³

GRADES, RANKS, AND TITLES OF THE COMMISSIONED CORPS 42 U.S.C. 207

SEC. 206. (a) ¹⁴ The Surgeon General during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 205 or pursuant to subsection (c) of such section. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

- (1) Officers of the director grade—colonel;
 - (2) Officers of the senior grade—lieutenant colonel;
 - (3) Officers of the full grade—major;
 - (4) Officers of the senior assistant grade—captain;
 - (5) Officers of the assistant grade—first lieutenant;
- and
- (6) Officers of the junior assistant grade—second lieutenant.

(b) The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon and (6) senior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve".

¹² Subsec. (c) was added by sec. 3 of P.L. 425, 80th Congress.

¹³ Sec. 3 of P.L. 425, 80th Congress, redesignated this subsection, which was formerly subsec. (e), as subsec. (d).

¹⁴ Subsec. 206(a) amended by sec. 11 of P.L. 87-649.

(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.¹⁵

(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this Act) any officer to be separated from the Service or reduced in grade.¹⁵

APPOINTMENT OF PERSONNEL

SEC. 207.¹⁶ (a) (1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.¹⁷

¹⁵ Subsecs. (c) and (d) were added by sec. 4(b) of P.L. 425, 80th Congress.

¹⁶ Sec. 5(a) of P.L. 425, 80th Congress repealed sec. 207 and redesignated the former sec. 208 as sec. 207.

¹⁷ The second sentence of par. (2) of subsec. (a) was amended by sec. 3(c)(1) of P.L. 492, 84th Congress, by striking out "a period of not more than five years", and inserting in lieu thereof "an indefinite period". Note, however, that "this shall not affect the term of the commission of any officer in the Reserve Corps in effect on the date of such enactment unless such officer consents in writing to the extension of his commission for an indefinite period. In which event his commission shall be so extended without necessity of a new appointment" (sec. 3(c)(2) of P.L. 492, 84th Congress).

(3) No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had a number of years of active service (as defined in section 211(d)) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.¹⁸

(b) ¹⁹ (1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A)(i) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962; or

(B) does not come within clause (A) (i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.

¹⁸ Par. (3) was added by sec. 2 of P.L. 86-415.

¹⁹ Sec. 207(b) was amended by sec. 3 of P.L. 86-415 by inserting (1) after (b) and by striking out the last sentence and inserting in lieu thereof two new pars. (2) and (3).

(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c) Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health, Education, and Welfare.²⁰

(d)(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps and any person appointed under subsection (b), shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.²⁰

(2) For purposes of basic pay, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b), shall, in lieu of the credit provided in paragraph (1), be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1), plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e) ²¹ (1) A former officer of the Regular Corps may, if application for appointment is made within two years

²⁰ Subsecs. (c) and (d) were added by sec. 5(d) of P.L. 425, 80th Congress. Pars. (1) and (2) of subsec. (d) were amended by sec. 1(f) of the Career Compensation Act of 1949.

²¹ New subsec. (e) was added, and the former subsecs. (e) and (f) were redesignated as subsecs. (f) and (g), respectively, by sec. 3(b) of P.L. 492, 84th Congress.

after the date of the termination of his prior commission in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b).

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

(f) ²¹ In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws and their compensation may be fixed without regard to the Classification Act of 1923, as amended.²²

(g) ²¹ In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and compensated without regard to the Classification Act of 1923,²² as amended, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(h) Persons who are not citizens may be employed as consultants pursuant to subsection (e) and may be appointed to fellowships pursuant to subsection (f). Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.²³

(i) The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty.²³

²¹ New subsec. (e) was added, and the former subsecs. (e) and (f) were redesignated as subsecs. (f) and (g), respectively, by sec. 3(b) of P.L. 492, 84th Congress.

²² The Act of Aug. 23, 1949, 63 Stat. 972, directed that this reference should be held to mean the Classification Act of 1949.

²³ Subsecs. (h) and (i) were redesignated as such by sec. 3(b) of P.L. 492, 84th Congress. These subsections were formerly subsecs. (g) and (h).

SEC. 208.²⁴ (a) Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.²⁴

(b)²⁴ Commissioned officers on active duty, and retired officers entitled to retired pay pursuant to section 210(g)(3), section 211 or section 221(a), shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.²⁵

(c)²⁴ Members of the National Advisory Health Council and members of other national advisory councils established under this Act, other than ex officio members, while attending conferences or meetings of their respective councils or while otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding \$50 per diem, and shall also be entitled to receive an allowance for actual and necessary traveling and subsistence expenses while so serving away from their places of residence.²⁶

(d)²⁴ Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e) Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.²⁷

(f) Individuals appointed under section 207(f) shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the

²⁴ Sec. 208, formerly sec. 209, was so redesignated by sec. 5(c) of P.L. 425, 80th Congress. Subsec. (a) was amended, former subsecs. (b) and (d) repealed, and former subsecs. (c), (e), and (f) were redesignated (b), (c), and (d), respectively, by sec. 521(b) of the Career Compensation Act of 1949.

²⁵ Subsec. 208(b) was amended by sec. 11 of P.L. 87-649.

²⁶ Subsec. (c), formerly subsec. (e), was amended by sec. 5(a) of the National Mental Health Act (P.L. 487, 79th Congress), sec. 4(d) of the National Heart Act (P.L. 655, 80th Congress), sec. 4(d) of the National Dental Research Act (P.L. 755, 80th Congress), and sec. 3(e) of P.L. 692, 81st Congress.

²⁷ Subsec. (e), formerly subsec. (g), was so redesignated and was amended by sec. 521(b) of the Career Compensation Act of 1949.

Surgeon General may deem necessary to procure qualified fellows.^{28 29}

(g) ³⁰ The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional, and administrative personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act of 1949, as amended, nor more than the highest rate of grade 18 of the General Schedule of such Act, and shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

42 U.S.C. 210(g)

PROFESSIONAL CATEGORIES

42 U.S.C. 210b

SEC. 209.³¹ (a) For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 207(a)(1) or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a). Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

²⁸ Sec. 5(h) of P.L. 425, 80th Congress, amended former subsec. (h) by changing "section 208(d)" to "section 207(f)". Subsec. (h) was redesignated (h) by sec. 521(b) of the Career Compensation Act of 1949.

²⁹ Sec. 3 of the Act of April 27, 1956 (P.L. 492, 84th Congress), renumbered sec. 207(f) to read sec. 207(g). By inadvertence, the reference in sec. 208(f) was not changed.

³⁰ Subsec. (g) was amended by P.L. 87-793.

³¹ Sec. 209 was added by sec. 5(i) of P.L. 425, 80th Congress.

(c) Within the limits fixed by the Secretary in regulations under section 206(d) for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 206(c)) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 206(c) shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 205(c), the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 207, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 206(d); and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one.

PROMOTIONS AND SEPARATION OF COMMISSIONED OFFICERS IN THE REGULAR CORPS

SEC. 210. (a) Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in

such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade".

(c) Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Officers of the Regular Corps, found pursuant to subsection (c) to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2)³² Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b)) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Officers in a professional category of the Regular Corps, found pursuant to subsection (c) to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) If an officer who has completed the years of service required for promotion to a grade under paragraph (2)

³² Subsec. 210(d)(2) was amended by sec. 4(a) of P.L. 492, 84th Congress.

of subsection (d) fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e)), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) ³³ If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of 2½ per centum of the basic pay of the permanent grade held by him at the time of retirement for each year.³⁴

(h) If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) (1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2), by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the

³³ Subsec. (g) amended by sec. 11 of P.L. 87-649.

³⁴ Par. (3) was amended by sec. 5(c) of P.L. 86-415.

same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each

officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under section 209(c) for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 209(c)) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by the Act of December 11, 1926, as amended (5 U.S.C. 21a).³⁵

42 U.S.C. 212

RETIREMENT OF COMMISSIONED OFFICERS

SEC. 211.³⁶ (a) (1) A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of $2\frac{1}{2}$ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

³⁵ Sec. 210 was amended by sec. 6(a) of P.L. 425, 80th Congress.

³⁶ Sec. 211 amended by sec. 4 and subsec. 8 (b) and (c) of P.L. 86-415 became effective on April 8, 1960, in the case of commissioned officers of the P.H.S. Regular Corps, and on July 1, 1960, in the case of commissioned officers of the P.H.S. Reserve Corps. An officer in the Regular Corps on active duty on April 8, 1960, may be retired and have his retired pay computed under sec. 211 of the P.H.S. Act, as amended, by P.L. 86-415, or if he so elects, under such section as in effect prior to April 8, 1960.

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) For purposes of subsection (a), the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a), be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) The term "active service", as used in subsection (a), includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 210(g)(3) or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of year of active service which is less than six months shall be disregarded.

(f) ³⁷ For purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

SEC. 212.³⁸ (a) Except as provided in subsection (b), commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers—

(1) in time of war;

(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

³⁷ The limitation under subsec. (f) of sec. 211 of the Public Health Service Act, as amended by sec. 4 and subsec. 8(d) of P.L. 86-415, on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960.

³⁸ Sec. 212 was amended by sec. 501(b)(1) of P.L. 881, 84th Congress. For application of the provisions of this section, see also Miscellaneous Provisions, P.L. 881, 84th Congress.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 217 of the Social Security Act.

ALLOWANCES FOR UNIFORMS ³⁹

42 U.S.C. 214

SEC. 213. * * *

DETAIL OF PERSONNEL

42 U.S.C. 215

SEC. 214. (a) The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriation and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational, research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) shall be paid from applicable appropriations of the Service except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having

³⁹ Sec. 213, deleted by sec. 14 of P.L. 87-649; provisions now contained in title 37, U.S.C. 415(d).

been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 212.

42 U.S.C. 216

REGULATIONS

SEC. 215. (a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, title, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulations relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.

42 U.S.C. 217

USE OF SERVICE IN TIME OF WAR OR EMERGENCY

SEC. 216.⁴⁰ In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constituted a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice, and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief.

42 U.S.C. 218

NATIONAL ADVISORY COUNCILS

SEC. 217. (a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Heart Council, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense,

⁴⁰ Sec. 216 amended by P.L. 492, 84th Congress.

who shall be ex officio members; and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils established under this Act on cancer, mental health, heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in

the field of mental health and recommend to the Surgeon General, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public and private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.⁴¹

42 U.S.C. 218a

TRAINING OF OFFICERS

SEC. 218.⁴² (a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to reimburse the Service for such tuition and fees if thereafter he voluntarily leaves the Service within whichever of the following periods of active service is the greater: (1) six months, or (2) twice the period of such attendance but in no event more than two years. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer's prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any reimbursement which may be required by this subsection upon a determination that such reimbursement would be inequitable or would not be in the public interest.

⁴¹ Former subsecs. (c), (d), (f), and (g) were repealed and subsec. (e) redesignated subsec. (c), effective October 1, 1950, by sec. 3(c), P.L. 692, 81st Congress.

⁴² Sec. 218 amended by sec. 6, P.L. 492, 84th Congress.

SEC. 219. (a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided*, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b) ⁴³ * * *

(c) Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation or release from active duty.⁴⁴

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year.

PROMOTION CREDIT—ASSISTANT GRADE

42 U.S.C. 211c

SEC. 220.⁴⁵ Any medical officer of the Regular Corps of the Public Health Service who—

(1)(A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment, shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

SEC. 221.⁴⁶ (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their

42 U.S.C. 213a
(a) (1)-(9)

⁴³ Sec. 219(b), deleted by sec. 14 of P.L. 87-649; present provisions contained in title 37, U.S.C. 503(b).

⁴⁴ Sec. 219(c), beginning with second sentence until end of paragraph—all deleted by sec. 14 of P.L. 87-649; present provisions contained in title 37, U.S.C. 501(g).

⁴⁵ Sec. 220 was added by sec. 3 of P.L. 497, 84th Congress.

⁴⁶ Sec. 221 amended by sec. (d) of P.L. 88-431, and further amended by sec. 3(b) of P.L. 89-538.

surviving beneficiaries under the following provisions of title 10, United States Code:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Annuities Based on Retired or Retainer Pay.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposit of savings.

(b) The authority vested by title 10, United States Code, in the "military departments" or "the Secretary concerned" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee.

ADVISORY COMMITTEES

SEC. 222.⁴⁷ (a) The Surgeon General may, without regard to the civil service laws, and subject to the Secretary's approval in such cases as the Secretary may prescribe, from time to time appoint such advisory committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable for the purpose of advising him in connection with any of his functions.

(b) Members of any advisory committee appointed under this section who are not regular full-time employees of the United States shall, while attending meetings or conferences of such committee or otherwise engaged on business of such committee receive compensation and allowances as provided in section 208(e) for members of national advisory councils established under this Act.

⁴⁷ Sec. 222 added by sec. 3 of P.L. 87-838.

(c) Upon appointment of any such committee, the Surgeon General, with the approval of the Secretary, may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects in the areas or fields with which such committee is concerned as he determines to be appropriate.

VOLUNTEER SERVICES

SEC. 223.⁴⁸ Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health, Education, and Welfare designated by him, for use in the operation of any health care facility or in the provision of health care.

⁴⁸ Sec. 223 added by sec. 6 of P.L. 90-174.

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATION

42 U.S.C. 241

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) ⁴⁹ Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research or research training projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council, and include in the grants for

⁴⁹ Subsec. 301 (d) amended by P.L. 87-838.

any such project grants of penicillin and other anti-biotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants-in-aid for such fiscal year;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(g) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields; and

(h) ⁵⁰ Enter into contracts during the fiscal year ending June 30, 1966, and each of the five succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(i) ⁵¹ Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendation of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

⁵⁰ Par. (h) of sec. 301 amended by sec. 9 of P.L. 90-174.

⁵¹ Subsec. 301(h) was redesignated as subsec. 301(i) by sec. 3 of P.L. 89-115.

SEC. 302. (a) In carrying out the purposes of section 301 with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the Narcotic Drugs Import and Export Act, as amended.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

SEC. 303.⁵² (a) In carrying out the purposes of section 301 with respect to mental health, the Surgeon General is authorized—

(1) to provide training and instruction and to establish and maintain traineeships, in accordance with the provisions of section 433(a);

(2) to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operation and administration of such institutions.

(b) Grants under paragraph (2) of subsection (a) may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be

⁵² Sec. 303 was amended by sec. 501 of P.L. 911, 84th Congress.

determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary.

RESEARCH AND DEMONSTRATIONS RELATING TO HEALTH FACILITIES AND SERVICES

SEC. 304.⁵³ (a) The Secretary is authorized—

(1) to make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research, experiments, or demonstrations (and related training), and

(2) to make contracts with public or private agencies, institutions, or organizations for the conduct of research, experiments, or demonstrations (and related training),

relating to the development, utilization, quality, organization, and financing of services, facilities, and resources of hospitals, facilities for long-term care, or other medical facilities (including, for purposes of this section, facilities for the mentally retarded, as defined in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963), agencies, institutions, or organizations or to development of new methods or improvement of existing methods of organizations, delivery, or financing of health services, including, among others—

(A) projects for the construction of units of hospitals, facilities for long-term care, or other medical facilities which involve experimental architectural designs or functional layout or use of new materials or new methods of construction, the efficiency of which can be tested and evaluated, or which involve the demonstration of such efficiency, particularly projects which also involve research, experiments, or demonstrations relating to delivery of health services, and

(B) projects for development and testing of new equipment and systems, including automated equipment, and other new technology systems or concepts for the delivery of health services, and

(C) projects for research and demonstration in new careers in health manpower and new ways of educating and utilizing health manpower.

⁵³ Sec. 304 amended by sec. 3(a) of P.L. 90-174. Subsec. 3(b) of P.L. 90-174 provides that any sums appropriated for the fiscal year ending June 30, 1968, for carrying out secs. 624 and 314(e)(3) which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act, and the total of such sums (and any portion of the appropriations for such year for such purpose obligated prior to such date of enactment in carrying out such sections) shall be deducted from the authorization for such year contained in such sec. 304.

Cost
limitation

(b) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this section, a grant or contract under this section with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, experimental, or demonstration purposes. The provisions of clause (5) of the third sentence of section 605(a) and such other conditions as the Secretary may determine shall apply with respect to grants or contracts under this section for projects for construction of a facility or for acquisition of equipment.

78 Stat. 454
42 U.S.C. 291e

(c) Payments of any grants or under any contracts under this section may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this section.

Appropriation

(d) There are authorized to be appropriated for payment of grants or under contracts under this section \$20,000,000 for the fiscal year ending June 30, 1968, \$40,000,000 for the fiscal year ending June 30, 1969, and \$60,000,000 for the fiscal year ending June 30, 1970; except that, for any fiscal year ending after June 30, 1968, such portions of such sums as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this section.

Program
evaluation

42 U.S.C. 242c

THE NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 305.⁵⁴ (a) The Surgeon General is authorized, (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; and (E) the economic and other impacts of such conditions; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information.

⁵⁴ Sec. 305 added by sec. 3 of P.L. 652, 84th Congress.

(b) The Surgeon General is authorized, at appropriate intervals, to make available, through publications and otherwise, to any interested governmental or other public or private agencies, organizations, or groups, or to the public, the results of surveys or studies made pursuant to subsection (a).

(c) For each fiscal year beginning after June 30, 1956, there are authorized to be appropriated such sums as the Congress may determine for carrying out the provisions of this section.

(d) To assist in carrying out the provisions of this section the Surgeon General is authorized and directed to cooperate and consult with the Departments of Commerce and Labor and any other interested Federal Departments or agencies and with State health departments. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes, as amended, of any appropriate State or other public agency, and may, without regard to section 3709 of the Revised Statutes, as amended, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group, or such individual and the Secretary of Health, Education, and Welfare. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

TRAINEESHIPS FOR PROFESSIONAL PUBLIC HEALTH
PERSONNEL

42 U.S.C. 242d

SEC. 306.⁵⁵ (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine, but not to exceed \$4,500,000 for the fiscal year ending June 30, 1965, \$7,000,000 for the fiscal year ending June 30, 1966, \$8,000,000 for the fiscal year ending June 30, 1967, and \$10,000,000 each for the fiscal year ending June 30, 1968, and the succeeding fiscal year, to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, and other professional health personnel.

(b) Traineeships under this section may be awarded by the Surgeon General either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments to institutions may be used only

⁵⁵ Sec. 306(a) amended by sec. 2 of P.L. 88-497.

for traineeships, and payments under this section with respect to any traineeship shall be limited to such amounts as the Surgeon General finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

(d) ⁵⁶ The Surgeon General shall appoint an expert advisory committee, composed of persons representative of the principal health specialties in the fields of public health administration and training, to advise him in connection with the administration of this section and section 309 including the development of program standards and policies and including, in the case of section 309, certification to the Surgeon General of projects which it has reviewed and approved. Members of such committee who are not otherwise in the employ of the United States, while attending meetings of the committee or otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$50 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73 b-2) for persons in the Government service employed intermittently.

(e) ⁵⁷ The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about training of professional public health personnel, and including members of the advisory committee appointed pursuant to subsection (d), to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for trained public health personnel; in considering modifications in this section, if any, which may be desirable to increase its effectiveness; and in considering the most effective distribution of responsibilities between Federal and State governments with respect to the administration and support of public health training. The Surgeon General shall submit to the Congress, on or before January 1, 1959, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1967, and December 1, 1967, call a similar conference, and

⁵⁶ Sec. 306(d) amended by sec. 1(b) of P.L. 86-720.

⁵⁷ Sec. 306(e) amended by sec. 2 of P.L. 88-497.

shall submit to the Congress, on or before January 1, 1968, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

(f) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

TRAINEESHIPS FOR ADVANCED TRAINING OF
PROFESSIONAL NURSES

42 U.S.C. 242e

SEC. 307.⁵⁸ (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next seven fiscal years, such sums as the Congress may determine, to cover the cost of traineeships for the training of professional nurses to teach in the various fields of nurse training (including practical nurse training) or to serve in an administrative or supervisory capacity.⁵⁹

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or other nonprofit institutions providing the training.

(c) Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

(d) The Surgeon General shall appoint an expert advisory committee, composed of persons from the fields of nursing and nurse training, hospital administration, and medicine, to advise him in connection with the administration of this section, including the development of program standards and policies. Members of such committee who are not otherwise in the employ of the United States, while attending meetings of the committee or otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$50 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law

⁵⁸ Sec. 307 added by secs. 201 and 202 of P.L. 911, 84th Congress. The authority under sec. 307(a)-(c) expired on June 30, 1964. See sec. 821 of this Act for existing authority for traineeships for advanced training of professional nurses.

⁵⁹ Sec. 307(a) amended by P.L. 86-105.

(5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(e)⁶⁰ The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about the advanced training of professional nurses, and including members of the advisory committee appointed pursuant to subsection (d), to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for professional nurses in teaching, administrative and supervisory positions and in considering modifications in this section, if any, which may be desirable to increase its effectiveness, including possible means of stimulating State participation in the administration and financing of advanced training of professional nurses through Federal matching grants to States for the support of traineeships or related training activities, or otherwise. The Surgeon General shall submit to the Congress, on or before January 1, 1959, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

(f) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

42 U.S.C. 242f

INTERNATIONAL COOPERATION

SEC. 308.⁶¹ (a) To carry out the purposes of clause (1)⁶² of section 2 of the International Health Research Act of 1960, the Surgeon General may, in the exercise of his authority under this Act and other provisions of law to conduct and support health research and research training, make such use of health research and research training resources in participating foreign countries as he may deem necessary and desirable.

(b) In carrying out his responsibilities under this section the Surgeon General may—

(1) establish and maintain fellowships in the United States and in participating foreign countries;

⁶⁰ Sec. 307(e) amended by P.L. 86-105.

⁶¹ Sec. 308 added by sec. 3 of P.L. 86-610.

⁶² Clause (1) of sec. 2 reads as follows: "(1) to advance the status of the health sciences in the United States and thereby the health of the American people through cooperative endeavors with other countries in health research, and research training".

(2) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining fellowships;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by public institutions or agencies, or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(4) participate and otherwise cooperate in any international health research or research training meetings, conferences, or other activities;

(5) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of research or research training, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently; and

(6) procure, in accordance with the provisions of section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Secretary, but not in excess of \$50 per diem, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(c) The Surgeon General may not, in the exercise of his authority under this section, assist in the construction of buildings for research or research training in any foreign country.

(d) For the purposes of this section—

(1) The term “health research” shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) The term “participating foreign countries” means those foreign countries which cooperate with the United States in carrying out the purposes of this section.

SEC. 309.⁶³ (a) In order to enable the Surgeon General to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are hereby authorized to be appropriated not to exceed \$2,000,000 for each fiscal year in the period beginning July 1, 1960, and ending June 30, 1964, \$2,500,000 for the fiscal year ending June 30, 1965, \$4,000,000 for the fiscal year ending June 30, 1966, \$5,000,000 for the fiscal year ending June 30, 1967, \$7,000,000 for the fiscal year ending June 30, 1968, and \$9,000,000 for the fiscal year ending June 30, 1969.

(b)⁶⁴ Grants to institutions under subsection (a) of this section may be made only for those projects which are recommended by the advisory committee appointed pursuant to section 306(d). Any grant for a project made from an appropriation under this section for any fiscal year may include such amounts for carrying out such projects during succeeding years. Payment pursuant to such grants may be made in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with representatives of such institutions.

(c)⁶⁵ There are also authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1968, \$6,000,000 for the fiscal year ending June 30, 1969, and \$7,000,000 for the fiscal year ending June 30, 1970, to enable the Surgeon General to make grants, under such terms and conditions as may be prescribed by regulations, for provision, in public or nonprofit private schools of public health accredited by a body or bodies recognized by the Surgeon General, of comprehensive professional training, specialized consultive services, and technical assistance in the fields of public health and in the administration of State or local public health programs, except that (1) in allocating funds made available under this subsection among such schools of public health, the Surgeon General shall give primary consideration to the number of federally sponsored students attending each such school, and (2) for any fiscal year ending after June 30, 1968, such portions of the funds made available under this subsection as the Secretary may determine,

⁶³ Sec. 309 amended by sec. 3 of P.L. 88-497.

⁶⁴ The requirement in sec. 309(b) of the Public Health Service Act that regulations be prescribed for installment payments has been superseded by sec. 6 of P.L. 80-105.

⁶⁵ Subsec. 309(c) added by sec. 4 of P.L. 89-749 was amended by sec. 2(g) of P.L. 90-174, and was further amended by sec. 8(c) of the same P.L.

but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this subsection.

SEC. 310.⁶⁶ There are hereby authorized to be appropriated not to exceed \$7,000,000 for the fiscal year ending June 30, 1966, \$8,000,000 for the fiscal year ending June 30, 1967, and \$9,000,000 for the fiscal year ending June 30, 1968, to enable the Surgeon General (1) to make grants to public and other nonprofit agencies, institutions, and organizations for paying part of the cost of (i) establishing and operating family health service clinics for domestic agricultural migratory workers and their families, including training persons to provide services in the establishing and operating of such clinics, and (ii) special projects to improve health services for and the health conditions of domestic agricultural migratory workers and their families, including necessary hospital care, and including training persons to provide health services for or otherwise improve the health conditions of such migratory workers and their families, and (2) to encourage and cooperate in programs for the purpose of improving health services for or otherwise improving the health conditions of domestic agricultural migratory workers and their families.

42 U.S.C. 242h

PART B—FEDERAL-STATE COOPERATION

IN GENERAL

SEC. 311 (a) ⁶⁷ The Surgeon General is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Surgeon General shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 314, and shall advise the several States on matters relating to the preservation and improvement of the public health.

42 U.S.C. 243

(b) ⁶⁷ The Surgeon General shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 314. The Surgeon General is also authorized to train personnel for State and local health work.

⁶⁶ Sec. 310 amended by sec. 3(a) of P.L. 89-109.

⁶⁷ Sec. 5(a) of P.L. 89-749 amended sec. 311 by inserting (a) after 311 and inserting a new subsec. (b). Sec. 5(b) of P.L. 89-749 amended subsec. (b) by the addition of a new sentence.

(c) ⁶⁸ The Secretary may enter into agreements providing for cooperative planning between Public Health Service medical facilities and community health facilities to cope with health problems resulting from disasters, and for participation by Public Health Service medical facilities in carrying out such planning. He may also, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for aid (other than planning) under the preceding sentences of this subsection as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation of the Public Health Service for the year in which such reimbursement is received.

HEALTH CONFERENCES

42 U.S.C. 244

SEC. 312.⁶⁹ A conference of the health authorities of the several States shall be called annually by the Surgeon General. Whenever in his opinion the interests of the public health would be promoted by a conference, the Surgeon General may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Surgeon General to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

(a). There shall be a collection of the statistics of the births and deaths in registration areas annually, the data for which shall be obtained only from and restricted to such registration records of such States and municipalities as in the discretion of the Secretary of Health, Education, and Welfare possess records affording satisfactory data in necessary detail, the compensation for the transcription of which shall not exceed 4 cents for each birth or death reported; or a minimum compensation of \$25 may be allowed in the discretion of the Secretary of Health, Education, and Welfare, in States or cities registering less than five hundred deaths or five hundred births during the preceding year.

⁶⁸ Subsec. (c) added by sec. 4 of P.L. 90-174.

⁶⁹ Sec. 312 amended by sec. 12(b) of P.L. 90-174.

SEC. 313. To secure uniformity in the registration of mortality, morbidity, and vital statistics the Surgeon General shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Surgeon General.

GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH
PLANNING ⁷⁰

SEC. 314. (a)(1) ⁷¹ AUTHORIZATION.—In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Surgeon General is authorized during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to States which have submitted, and had approved by the Surgeon General, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$2,500,000 for the fiscal year ending June 30, 1967, \$7,000,000 for the fiscal year ending June 30, 1968, \$10,000,000 for the fiscal year ending June 30, 1969, and \$15,000,000 for the fiscal year ending June 30, 1970.

(2) STATE PLANS FOR COMPREHENSIVE STATE HEALTH PLANNING.—In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of State and local agencies and nongovernmental organizations and groups concerned with health, and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Surgeon General, are designed to provide for comprehensive State planning for health services (both public and private), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State;

⁷⁰ Sec. 314 amended by secs. 3 and 6 of P.L. 89-749.

⁷¹ Subsec. 314(a)(1) amended by sec. 2(a)(1) of P.L. 90-174.

80 Stat. 1181
80 Stat. 1182

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Surgeon General that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

Recordkeeping
requirements.

(G) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General finds necessary to assure the correctness and verification of such reports;

(H)⁷² provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Surgeon General appropriate modifications thereof;

(I)⁷² effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommended appropriate modification thereof;

⁷² Subsec. 314(a)(2) amended by redesignating subpars. (I) and (J) as (J) and (K), respectively; and by inserting a new subpar. (I), by sec. 2(a)(2) of P.L. 90-174.

(J)⁷² provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K)⁷² contain such additional information and assurances as the Surgeon General may find necessary to carry out the purposes of this subsection.

(3) (A) STATE ALLOTMENTS.—From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Surgeon General determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallocation by the Surgeon General from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Surgeon General estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount so reallocated to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4)⁷³ PAYMENTS TO STATES.—From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Surgeon General of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal

80 Stat. 1182
80 Stat. 1183

⁷² Subsec. 314(a)(2) amended by redesignating subpars. (I) and (J) as (J) and (K), respectively; and by inserting a new subpar. (I), by sec. 2(a)(2) of P.L. 90-174.

⁷³ The last sentence of subsec. 314(a)(4) amended by sec. 2(a)(3) of P.L. 90-174.

share" for any State for purposes of this subsection shall be all, or such part as the Surgeon General may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum, of such cost.

PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

(b)⁷⁴ The Surgeon General is authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a), project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1967, \$7,500,000 for the fiscal year ending June 30, 1968, \$10,000,000 for the fiscal year ending June 30, 1969, and \$15,000,000 for the fiscal year ending June 30, 1970.

PROJECT GRANTS FOR TRAINING, STUDIES, AND DEMONSTRATIONS

(c)⁷⁴ The Surgeon General is also authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$1,500,000 for the fiscal year ending June 30, 1967, \$2,500,000 for the fiscal year ending June 30, 1968, \$5,000,000 for the fiscal year ending June 30, 1969, and \$7,500,000 for the fiscal year ending June 30, 1970.

⁷⁴ Subsecs. 314 (b) and (c) amended by subsecs. 2(b) (1) and (2), respectively; and subsec. (d) (1) amended by subsec. (d) (1) (a), of P.L. 90-174.

GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

(d) (1)⁷⁴ **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$70,000,000 for the fiscal year ending June 30, 1968, \$90,000,000 for the fiscal year ending June 30, 1969, and \$100,000,000 for the fiscal year ending June 30, 1970, to enable the Surgeon General to make grants to State health or mental health authorities to assist the States in establishing and maintaining adequate public health services, including the training of personnel for State and local health work. The sums so appropriated shall be used for making payments to States which have submitted, and had approved by the Surgeon General, State plans for provision of public health services, except that, for any fiscal year ending after June 30, 1968, such portion of such sums as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this subsection and the amount available for allotments hereunder shall be reduced accordingly.

(2) **STATE PLANS FOR PROVISION OF PUBLIC HEALTH SERVICES.**—In order to be approved under this subsection, a State plan for provision of public health services must—

(A) provide for administration or supervision of administration by the State health authority or, with respect to mental health services, the State mental health authority;

(B) set forth the policies and procedures to be followed in the expenditure of the funds paid under this subsection;

(C) contain or be supported by assurances satisfactory to the Surgeon General that (i) the funds paid to the State under this subsection will be used to make a significant contribution toward providing and strengthening public health services in the various political subdivisions in order to improve the health of the people; (ii) such funds will be made available to other public or nonprofit private agencies, institutions, and organizations, in accordance with criteria which the Surgeon General determines are designed to secure maximum participation of local, regional, or metropolitan agencies and groups in the provision of such services; and (iii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds;

(D) provide for the furnishing of public health services under the State plan in accordance with such plans as have been developed pursuant to subsection (a);

⁷⁴ Subsecs. 314 (b) and (c) amended by subsecs. 2(b) (1) and (2), respectively; and subsec. (d) (1) amended by subsec. (d) (1) (a), of P.L. 90-174.

(E) provide that public health services furnished under the plan will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(G) provide that the State health authority or, with respect to mental health services, the State mental health authority, will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection and submit to the Surgeon General appropriate modifications thereof;

(H) provide that the State health authority or, with respect to mental health services, the State mental health authority, will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General finds necessary to assure the correctness and verification of such reports;

(I) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection; and

(J) contain such additional information and assurances as the Surgeon General may find necessary to carry out the purposes of this subsection.

(3) STATE ALLOTMENTS.—From the sums appropriated to carry out the provisions of this subsection the several States shall be entitled for each fiscal year to allotments determined, in accordance with regulations, on the basis of the population and financial need of the respective States, except that no State's allotment shall be less for any year than the total amounts allotted to such State under formula grants for cancer control, plus other allotments under this section, for the fiscal year ending June 30, 1967.

(4) (A) PAYMENTS TO STATES.—From each State's allotment under this subsection for a fiscal year, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under this subsection. Such payments shall be made from time to time in advance on the basis of estimates by the Surgeon General of the sums the State will expend under the State plan, except that such adjustments as may be

necessary shall be made on account of previously made underpayments or overpayments under this subsection.

(B) For the purpose of determining the Federal share for any State, expenditures by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State or a political subdivision thereof.

(5)⁷⁵ FEDERAL SHARE.—The “Federal share” for any State for purposes of this subsection shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that in no case shall such percentage be less than $33\frac{1}{3}$ per centum or more than $66\frac{2}{3}$ per centum, and except that the Federal share for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be $66\frac{2}{3}$ per centum.

(6) DETERMINATION OF FEDERAL SHARES.—The Federal shares shall be determined by the Surgeon General between July 1 and September 1 of each year, on the basis of the average per capita incomes of each of the States and of the United States for the most recent year for which satisfactory data are available from the Department of Commerce, and such determination shall be conclusive for the fiscal year beginning on the next July 1. The populations of the several States shall be determined on the basis of the latest figures for the population of the several States available from the Department of Commerce.

(7)⁷⁶ ALLOCATION OF FUNDS WITHIN THE STATES.—At least 15 per centum of a State’s allotment under this subsection shall be available only to the State mental health authority for the provision under the State plan of mental health services. Effective with respect to allotments under this subsection for fiscal years ending after June 30, 1968, at least 70 per centum of such amount reserved for mental health services and at least 70 per centum of the remainder of a State’s allotment under this subsection shall be available only for the provision under the State plan of services in communities of the State.

PROJECT GRANTS FOR HEALTH SERVICES DEVELOPMENT

(e)⁷⁷ There are authorized to be appropriated \$90,000,000 for the fiscal year ending June 30, 1968, \$95,000,000 for the fiscal year ending June 30, 1969, and \$80,000,-

⁷⁵ The addition of the Trust Territory of the Pacific Islands is not effective until July 1, 1968, sec. 2(d)(2) of P.L. 90-174.

⁷⁶ Subsec. 314(d)(7) amended by subsec. (d)(3) of P.L. 90-174.

⁷⁷ Subsec. 314(e) amended by subsecs. 2(e), 3(b), and 8(b), respectively, of P.L. 90-174. Subsec. 3(b) of P.L. 90-174 also provides that any sums appropriated for the fiscal year ending June 30, 1968, for carrying out sec. 314(e)(3) which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act.

000 for the fiscal year ending June 30, 1970, for grants to any public or nonprofit private agency, institution, or organization to cover part of the cost of (1) providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance, or (2) developing and supporting for an initial period new programs of health services (including related training). Such grants may be made pursuant to clause (1) or (2) of the preceding sentence with respect to projects involving the furnishing of public health services only if such services are provided in accordance with such plans as have been developed pursuant to subsection (a). For any fiscal year ending after June 30, 1968, such portion of the appropriations for grants under this subsection as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this subsection.

INTERCHANGE OF PERSONNEL WITH STATES

(f)(1) For the purposes of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a); the term "Secretary" means (except when used in paragraph (3)(D)) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(3)(A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii) on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be gov-

erned by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Department, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(iii) to continuation of their insurance under the Federal Employees' Group Life Insurance Act of 1954, and coverage under the Federal Employees Health Benefits Act of 1959, so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

(iv) (I) in the case of commissioned officers of the Service to have their service during their assignment treated as provided in section 214(d) for such officers on leave without pay, or (II) in the case of other officers and employees in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been payable by him during the period of such assignment with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriations Act, 1959, under the head 'Civil Service Retirement and Disability Fund') their service during such period as service within the meaning of the Civil Service Retirement Act;

68 Stat. 736
5 U.S.C. 2091
note

73 Stat. 708
5 U.S.C. 3001
note.

58 Stat. 690
42 U.S.C. 215.

72 Stat. 1064
5 U.S.C. 2267
note
70 Stat. 736
5 U.S.C. 2251
note

68 Stat. 736
5 U.S.C. 2091
note

except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement Act, the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under the Federal Employees' Group Life Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (iv) are made to such civil service retirement and disability fund.

39 Stat. 742;
63 Stat. 854
5 U.S.C. 751
note

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the Service) who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(5)⁷⁸ Appropriations to the Department shall be available, in accordance with the standardized Govern-

Transportation
of household
goods

⁷⁸ Pars. (5) and (6) of sec. 314(f) amended by sec. 12(d), subsecs. (1) and (2) respectively of P.L. 90-174.

ment travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6)⁷⁸ Officers and employees of States who are assigned to the Department under an arrangement under this subsection may (A) be given appointments in the Department covering the periods of such assignments, or (B) be considered to be on detail to the Department. Appointments of persons so assigned may be made without regard to the civil service laws. Persons so appointed in the Department shall be paid at rates of compensation determined in accordance with the Classification Act of 1949, and shall not be considered to be officers or employees of the Department for the purposes of (A) the Civil Service Retirement Act, (B) the Federal Employees' Group Life Insurance Act of 1954, or (C) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, the Federal Employees Health Benefits Act of 1959. State officers and employees who are assigned to the Department without appointment shall not be considered to be officers or employees of the Department, except as provided in subsection (7), nor shall they be paid a salary or wage by the Department during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Secretary and the State involved.

(7) (A) Any State officer or employee who is assigned to the Department without appointment shall nevertheless be subject to the provisions of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(B) Any State officer or employee who is given an appointment while assigned to the Department, or who is assigned to the Department without appointment, under an arrangement under this subsection, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sus-

Ante, p. 288
70 Stat. 736

5 U.S.C. 2251
note
68 Stat. 736
5 U.S.C. 2091
note
73 Stat. 708
5 U.S.C. 3001
note

Conflict-of-
interest provi-
sions, applica-
bility
76 Stat. 1121

⁷⁸ Pars. (5) and (6) of sec. 314(f) amended by sec. 12(d), subsecs. (1) and (2) respectively of P.L. 90-174.

tained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(8)⁷⁹ The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

GENERAL

(g) (1) All regulations and amendments thereto with respect to grants to States under subsection (a) shall be made after consultation with a conference of the State health planning agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a). All regulations and amendments thereto with respect to grants to States under subsection (d) shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement, prior to the issuance of such regulations or amendments, of the State authorities or agencies with whom such consultation is required.

(2) The Surgeon General, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. The amount by which such payments are so reduced shall be available

⁷⁹ Par. (8) of section 314(f) amended by subsec. 12(d)(2) of P.L. 90-174.

for payment of such costs (including the costs of such equipment and supplies) by the Surgeon General, but shall, for purposes of determining the Federal share under subsection (a) or (d), be deemed to have been paid to the State.

(3) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a), finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d), there is a failure to comply substantially with either—

Noncompliance, cessation of payments

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection; or

(C) applicable regulations under this section; the Surgeon General shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Surgeon General shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

(A) The term “nonprofit” as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

“Nonprofit”

80 Stat. 1189
80 Stat. 1190

(B) ⁸⁰ The term “State” includes the Commonwealth of Puerto Rico, Guam, American Samoa, the trust territory of the Pacific Islands, the Virgin Islands, and the District of Columbia and the term “United States” means the fifty States and the District of Columbia.

“State”

HEALTH EDUCATION AND INFORMATION

42 U.S.C. 247

SEC. 315. From time to time the Surgeon General shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other perti-

⁸⁰ The addition of the Trust Territory of the Pacific Islands is not effective until July 1, 1968, sec. 2(f) of P.L. 90-174.

nent health information for the use of persons and institutions engaged in work related to the functions of the Service.

SPECIAL PROJECT GRANTS FOR IMPROVING COMMUNITY
HEALTH SERVICES

SEC. 316.⁸¹

42 U.S.C. 247b

GRANTS FOR IMMUNIZATION PROGRAMS⁸²

SEC. 317.⁸² (a) There are hereby authorized to be appropriated \$14,000,000 for the fiscal year ending June 30, 1963, and \$11,000,000 each for the fiscal years ending June 30, 1964, June 30, 1965, and each of the next three fiscal years to enable the Surgeon General to make grants to States and, with the approval of the State health authority, to political subdivisions or instrumentalities of the States under this section. Amounts appropriated pursuant to this section for any fiscal year ending prior to July 1, 1968, shall be available for making such grants during the fiscal year for which appropriated and the succeeding fiscal year. Such grants may be used to pay that portion of the cost of immunization programs against poliomyelitis, diphtheria, whooping cough, tetanus, and measles which is reasonably attributable to (1) purchase of vaccines needed to protect children of preschool age and such additional groups of children as may be described in regulations of the Surgeon General upon his finding that they are not normally served by school vaccination programs and (2) salaries and related expenses of additional State and local health personnel needed for planning, organizational, and promotional activities in connection with such programs, including studies to determine the immunization needs of communities and the means of best meeting such needs and personnel and related expenses needed to maintain additional epidemiologic and laboratory surveillance occasioned by such programs. Such grants may also be used to pay similar costs in connection with immunization programs against any other disease of an infectious nature which the Surgeon General finds represents a major public health problem in terms of high mortality, morbidity, disability, or epidemic potential and to be susceptible of practical elimination as a public health problem through immunization with vaccines or other preventive agents which may become available in the future.

(b)⁸³ For purposes of this section an immunization program means a program which is so designed and conducted as to achieve, with the cooperation of practicing physicians, official health agencies, voluntary organiza-

⁸¹ Sec. 316 repealed effective July 1, 1967, by sec. 6 of P.L. 89-749.

⁸² The heading of sec. 317 and subsec. 317(a) amended by sec. 2 of P.L. 89-109.

⁸³ Subsecs. 317(b) and (c) amended by sec. 2 of P.L. 89-109.

tions, and volunteers, the immunization against the diseases referred to in subsection (a) over the period of the program of all, or practically all, susceptible persons in a community, particularly children of preschool age, and which includes plans and measures looking toward the strengthening of ongoing community programs for the immunization against such diseases of infants and for maintenance of immunity in the remainder of the population. Nothing in this section shall be construed to require any State or any political subdivision or instrumentality of a State to have an immunization program which would require any person who objects to immunization to be immunized or to have any child or ward of his immunized.

(c) (1)⁸⁴ Payments under this section may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments in such installments, and on such terms and conditions as the Surgeon General finds necessary to carry out the purposes of this section, and the Surgeon General may, if the applicant State or other political subdivision or instrumentality so requests, purchase and furnish vaccines in lieu of making money grants for the purchase thereof.

(2) Each applicant under this section for a money grant for the purchase of vaccines, or for a grant of vaccines in lieu of a money grant, for use in connection with an immunization program shall, at the time it files its application with the Surgeon General, provide the Surgeon General with assurances satisfactory to him that it will, if it receives such a grant, furnish any physician, who practices in the area in which such program is to be carried out and makes application therefor to it, with such amounts of vaccines as are reasonably necessary in order to permit such physician during the period of such program to immunize his patients who are in the group for whose immunization such grant of money or vaccines is made.

(3) Each applicant for a grant under this section for use in connection with an immunization program shall, at the time it files its application for such grant with the Surgeon General, provide the Surgeon General with assurances satisfactory to him that it will, if it receives such grant, furnish such other services and materials as may be necessary to carry out such program.

(d) The Surgeon General, at the request of a State or other public agency, may reduce the grant to such agency under this section by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Public Health Service to such agency when such detail is made for the convenience of and at the request of such agency and for

⁸⁴ Subsec. 317(c) (3) amended by sec. 2 of P.L. 89-109.

the purpose of carrying out a function for which a grant is made under this section. The amount by which such grant is so reduced shall be available for payment of such costs by the Surgeon General, but shall, for purposes of subsection (c), be deemed to have been paid to such agency.

42 U.S.C.
701-731;
29 U.S.C. 45b

(e) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to a political subdivision of a State under title V of the Social Security Act, or other provisions of this Act, or other Federal law and which are available for the purchase of vaccine or for organizing, promoting, conducting, or participating in immunization programs, from being used for such purposes in connection with programs assisted through grants under this section.

SPECIAL PROJECT GRANTS FOR ASSISTING IN THE AREA-WIDE PLANNING OF HEALTH AND RELATED FACILITIES

SEC. 318.⁸⁵

42 U.S.C. 248

PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

HOSPITALS

SEC. 321. The Surgeon General, pursuant to regulations, shall—

(a)⁸⁶ Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c)⁸⁷ Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received there-

⁸⁵ Sec. 318 repealed effective July 1, 1967, by sec. 6 of P.L. 89-749.

⁸⁶ Subsec. (a) was amended by sec. 2(a) of P.L. 781, 80th Congress.

⁸⁷ Subsec. (c) was amended, by striking out the word "and" at the end of the subsection, by sec. 2(b) of P.L. 781, 80th Congress.

for to the credit of the appropriation from which the materials for making the articles were purchased;

(d)⁸⁸ Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e)⁸⁹ Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station.

CARE AND TREATMENT OF SEAMEN AND CERTAIN OTHER PERSONS 42 U.S.C. 249

SEC. 322. (a) The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps;

(7)⁹⁰ Seamen-trainees while participating in maritime training programs to develop or enhance their employability in the maritime industry; and

(8)⁹¹ Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services

⁸⁸ Subsec. (d) was amended, by striking out the period at the end of the subsection and inserting in lieu thereof "; and", by sec. 2(b) of P.L. 781, 80th Congress.

⁸⁹ Subsec. (e) was added by sec. 2(b) of P.L. 781, 80th Congress.

⁹⁰ Subsec. 322(a)(7) amended by sec. 10(c) of P.L. 90-174.

⁹¹ Subsec. 322(a)(8) was added by P.L. 88-424.

performed by seamen employed on such vessel or on vessels engaged in similar operations.

(b) When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(d) Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(e) Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made.⁹²

42 U.S.C. 250

CARE AND TREATMENT OF FEDERAL PRISONERS

SEC. 323. The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752), in penal and correctional institutions of the United States.

42 U.S.C. 251

EXAMINATION AND TREATMENT OF FEDERAL EMPLOYEES

SEC. 324.⁹³ (a) The Surgeon General is authorized to provide at institutions, hospitals, and stations of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act and extensions thereof. The Surgeon General may also provide for making medical examinations of—

⁹² Subsec. (e) amended by sec. 3 of P.L. 80-781.

⁹³ Sec. 324 amended by secs. 10 (a) and (b) of P.L. 90-174. All references to sec. 324(a)-(d) should be read as 324(a) (1)-(4), respectively.

(1) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(2) employees in Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshoremen's and Harbor Workers' Compensation Act, as amended (U.S.C., 1940 edition, title 33, chapter 18), as requested by any deputy commissioner thereunder.

(b) The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of title 5 of the United States Code) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received.

EXAMINATION OF ALIENS

42 U.S.C. 252

SEC. 325. The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary.

SERVICES TO COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE

42 U.S.C. 253

SEC. 326.⁹⁴ (a) Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular and temporary members of the United States Coast Guard Reserve when on active duty;

(2)⁹⁴ commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey on active duty including those on shore duty and those on detached duty; and

⁹⁴ Pars. (1) and (2) were amended and par. (3) was added by sec. 5(d) of P.L. 86-415.

(3)⁹⁴ commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty; shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the Coast and Geodetic Survey

(b)⁹⁵ * * *

(c)⁹⁵ The Service shall provide all services referred to in subsection (a) required by the Coast Guard or Coast and Geodetic Survey and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard or Coast and Geodetic Survey vessels may extend aid to the crews of American vessels engaged in deep-sea fishing.

INTERDEPARTMENTAL WORK

42 U.S.C. 254

SEC. 327. Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work or services, requested in accordance with section 7 of the Act of May 21, 1920, as amended (U.S.C., 1940 edition, title 31, sec. 686), or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health, Education, and Welfare for the Service in accordance with that section.

SHARING OF MEDICAL CARE FACILITIES AND RESOURCES

SEC. 328.⁹⁶ (a) For purposes of this section—

(1) the term "specialized health resources" means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term "hospital", unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and

⁹⁴ Pars. (1) and (2) were amended and par. (3) was added by sec. 5(d) of P.L. 86-415.

⁹⁵ Sec. 326(b) repealed and sec. 326(c) amended by P.L. 88-71.

⁹⁶ Sec. 328 added by sec. 7 of P.L. 90-174.

hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, and with other health schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreement or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of specialized health resources, and providing for reciprocal reimbursement. Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received.

PART D—LEPERS

RECEIPT OF LEPERS

42 U.S.C. 255

SEC. 331.⁹⁶ The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 332 or 361 of this Act, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon

⁹⁶ Sec. 331 amended by subsec. 29(b) and subsec. 47(f) of P.L. 86-624.

General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana.

42 U.S.C. 256

APPREHENSION, DETENTION, TREATMENT, AND RELEASE

SEC. 332. The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy.

PART E—NARCOTICS ADDICTS

42 U.S.C. 257

CARE AND TREATMENT

SEC. 341.⁹⁷ (a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code), addicts who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

(b) Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioners of the District of Columbia or their designated agent, the name, address, and such other pertinent information

⁹⁷ Sec. 341 amended by sec. 601 of P.L. 89-793.

as may be useful in the rehabilitation to society of such person.

EMPLOYMENT OF ADDICTS

42 U.S.C. 258

SEC. 342. Narcotic addicts in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

CONVICTS

42 U.S.C. 259

SEC. 343. (a) The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts, if accommodations are available, all addicts who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an insti-

tution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, and the nature of the offense committed. Whenever an alien addict transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) The provisions of the Act of June 21, 1902, as amended (U.S.C., 1940 edition, title 18, secs. 710-712a), regulating commutation of sentence for good conduct of United States prisoners, section 8 of the Act of May 27, 1930 (U.S.C., 1940 edition, title 18, sec. 744h), regulating commutation of sentence for employment in industry, and the Act of June 25, 1910, as amended (U.S.C., 1940 edition, title 18, secs. 714-723c), relating to parole, shall be applicable to any narcotic addict confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no narcotic addict confined in any institution, whether or not an institution of the Public Health Service, shall be released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an addict.

(c) Not later than one month prior to the expiration of the sentence of any addict confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict and that he may by further treatment in a Service hospital be cured of his addiction, the addict shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment.

The addict may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict may be given such further treatment as is necessary to cure him of his addiction.

(d) Every person convicted of an offense against the United States, upon discharge, or upon release on parole from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict, shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts discharged from hospitals of the Service.

VOLUNTARY PATIENTS

42 U.S.C. 260

SEC. 344. (a) Any addict, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts.

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict, whether by treatment in a hospital of the Service he may probably be cured of his addiction, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict shall be ad-

mitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted. Any such addict may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict who is discharged as cured.⁹⁸

(c) Any addict admitted for treatment under this section, including any addict, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction or until such time as he ceases to be an addict.

(d)⁹⁹ Any addict admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this Act, be confidential and shall not be divulged.

42 U.S.C. 260a

PERSONS COMMITTED FROM DISTRICT OF COLUMBIA

SEC. 345.¹⁰⁰ (a) The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 321 (b), any addict who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for care and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; and (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than 100; and (3) suitable accommodations are available after all eligible addicts convicted

⁹⁸ The last sentence of subsec. (b) was added by sec. 5 of P.L. 781, 80th Congress.

⁹⁹ Subsec. 344(d) amended by sec 302(b) of P.L. 764, 84th Congress.

¹⁰⁰ Secs. 345 and 347 added and previous sec. 345 renumbered 346 by Act of May 8, 1954, 68 Stat. 79, P.L. 355, 83d Congress.

of offenses against the United States have been admitted.¹

(b) Any person admitted to a hospital of the Service pursuant to subsection (a) shall be discharged therefrom (1) upon order of the United States District Court for the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the United States District Court for the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress).

(c) With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a), the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged.²

PENALTIES

42 U.S.C. 261

SEC. 346. (a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts are treated and cared for, any habit-forming narcotic drug, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof,

¹ Subsec. 345(a) amended by sec. 392(c) of P.L. 764, 84th Congress.

² Secs. 345 and 347 added and previous sec. 245 renumbered 346 by Act of May 8, 1954, 68 Stat. 79, P.L. 355, 83d Congress.

shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

RELEASE OF PATIENTS

SEC. 347.² For purposes of this Act, an individual shall be deemed cured of his addiction and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

PART F—LICENSING—BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES³

42 U.S.C. 262

REGULATION OF BIOLOGICAL PRODUCTS

SEC. 351. (a) No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man, unless (1) such virus, serum, toxin, antitoxin, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license, issued by the Secretary as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, or other product is plainly marked with the proper

³ Title changed by sec. 5(a) of P.L. 90-174.

name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, or other product aforesaid has been notified by the Secretary not to sell, barter, or exchange the same.

(b) No person shall falsely label or mark any package or container of any virus, serum, toxin, antitoxin, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, or other product aforesaid so as to falsify such label or mark.

(c) Any officer, agent, or employee of the Department of Health, Education, and Welfare, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

(d)⁴ Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishment for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

(e) No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be

⁴ Sec. 351 (d) was amended by sec. 2 of P.L. 85-881.

punished upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act (U.S.C., 1940 edition, title 21, ch. 9).

42 U.S.C. 263

PREPARATION OF BIOLOGICAL PRODUCTS

SEC. 352. (a) The Service may prepare for its own use any product described in section 351 and any product necessary to carrying out any of the purposes of section 301.

(b) The Service may prepare any product described in section 351 for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

LICENSING OF LABORATORIES

SEC. 353.^{5, 6} (a) As used in this section—

(1) the term “laboratory” or “clinical laboratory” means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man;

(2) The term “interstate commerce” means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

(b) (1) No person may solicit or accept in interstate commerce, directly or indirectly, any specimen for laboratory examination or other laboratory procedures, unless there is in effect a license for such laboratory issued by the Secretary under this section applicable to such procedures.

(2) The Secretary shall by regulation exempt from the provisions of this section laboratories whose operations

⁵ Sec. 353 added by sec. 5(a) of P.L. 90-174. (Sec. 5(c) of P.L. 90-174 stated that this section may be cited as the “Clinical Laboratories Improvement Act of 1967”.)

⁶ The amendment made by subsec. (a) shall become effective on the first day of the 13th month after the month in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month in which the amendment is enacted.

are so small or infrequent as not to constitute a significant threat to the public health.

(c) A license issued by the Secretary under this section may be applicable to all laboratory procedures or only to specified laboratory procedures or categories of laboratory procedures.

(d)(1) A license shall not be issued in the case of any clinical laboratory unless (A) the application therefor contains or is accompanied by such information as the Secretary finds necessary, and (B) the applicant agrees and the Secretary determines that such laboratory will be operated in accordance with standards found necessary by the Secretary to carry out the purposes of this section. Such standards shall be designed to assure consistent performance by the laboratories of accurate laboratory procedures and services, and shall include, among others, standards to assure—

(i) maintenance of a quality control program adequate and appropriate for accuracy of the laboratory procedures and services;

(ii) maintenance of records, equipment, and facilities necessary to proper and effective operation of the laboratory;

(iii) qualifications of the director of the laboratory and other supervisory professional personnel necessary for adequate and effective professional supervision of the operation of the laboratory (which shall include criteria relating to the extent to which training and experience shall be substituted for education); and

(iv) participation in a proficiency testing program established by the Secretary.

(2) A license issued under this section shall be valid for a period of three years, or such shorter period as the Secretary may establish for any clinical laboratory or any class or classes thereof; and may be renewed in such manner as the Secretary may prescribe. The provisions of this section requiring licensing shall not apply to a clinical laboratory in a hospital accredited by the Joint Commission on the Accreditation of Hospitals or by the American Osteopathic Association, or a laboratory which has been inspected and accredited by such commission or association, by the Commission on Inspection and Accreditation of the College of American Pathologists, or by any other national accreditation body approved for the purpose by the Secretary, but only if the standards applied by such commission, association, or other body in determining whether or not to accredit such hospital or laboratory are equal to or more stringent than the provisions of this section and the rules and regulations issued under this section, and only if there is adequate provision for assuring that such standards con-

Period of
validity

tinue to be met by such hospital or laboratory; provided that any such laboratory shall be treated as a licensed laboratory for all other purposes of this section.

(3) The Secretary may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed \$125 per annum.

(e) A laboratory license may be revoked, suspended, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any laboratory procedure or category of procedures not authorized in the license;

(3) has failed to comply with the standards with respect to laboratories and laboratory personnel prescribed by the Secretary pursuant to this section;

(4) has failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, he deems necessary to determine the laboratory's continued eligibility for its license hereunder or continued compliance with the Secretary's standards hereunder;

(5) has refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect the laboratory and its operations and pertinent records at any reasonable time; or

(6) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

Legal
procedure

(f) Whenever the Secretary has reason to believe that continuation of any activity by a laboratory licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

Judicial
review

(g) (1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer

designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

72 Stat. 941;
80 Stat. 1323

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine.

(i) The provisions of this section shall not apply to any clinical laboratory operated by a licensed physician, osteopath, dentist, or podiatrist, or group thereof, who performs or perform laboratory tests or procedures, personally or through his or their employees, solely as an adjunct to the treatment of his or their own patients; nor shall such provisions apply to any laboratory with respect to tests or other procedures made by it for any person engaged in the business of insurance if made solely for purposes of determining whether to write an insurance contract or of determining eligibility or continued eligibility for payments thereunder.

(j) In carrying out his functions under this section, the Secretary is authorized, pursuant to agreement, to utilize the services or facilities of any Federal or State

or local public agency or nonprofit private agency or organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as he may determine.

(k) Nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with the provisions of this section or with the rules and regulations issued under this section.

(l) Where a State has enacted or hereafter enacts laws relating to matters covered by this section, which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

PART G—QUARANTINE AND INSPECTION

42 U.S.C. 264

CONTROL OF COMMUNICABLE DISEASES

SEC. 361. (a) The Surgeon General, with the approval of the Secretary is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c)⁷ Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this sec-

⁷ Subsec. (c) amended by subsec. 29 (c) and subsec. 47 (f) of P.L. 86-624.

tion may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary.

SUSPENSION OF ENTRIES AND IMPORTS FROM DESIGNATED PLACES 42 U.S.C. 265

SEC. 362. Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

SPECIAL POWERS IN TIME OF WAR 42 U.S.C. 266

SEC. 363.⁸ To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 361, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.

⁸ Under sec. 3 of P.L. 239, 80th Congress, the date of July 25, 1947, is deemed, for purposes of this section, to be the date of termination of "any state of war heretofore declared by the Congress".

SEC. 364. (a) Except as provided in title II of the Act of June 15, 1917, as amended (U.S.C., 1940 edition, title 50, secs. 191-194), the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c)⁹ The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as "employees of the Public Health Service", when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic

⁹ Subsecs. (c) and (d) added by ch. VII, P.L. 85-58.

hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term "basic hourly rate" shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.¹⁰

(d) (1) The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health, Education, and Welfare may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided*, That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of which are covered by published schedules, or the aircraft or trains in which they arrive, or (3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered.

¹⁰ Sec. 364 (c) amended by P.L. 85-580.

SEC. 365. (a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services.

SEC. 366. (a) Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c). Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be ob-

served by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

CIVIL AIR NAVIGATION AND CIVIL AIRCRAFT

42 U.S.C. 270

SEC. 367. The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 364, 365, and 366 and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health.

PENALTIES

42 U.S.C. 271

SEC. 368. (a) Any person who violates any regulation prescribed under sections 361, 362, or 363, or any provision of section 366 or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

(b) Any vessel which violates section 366, or any regulations thereunder or under section 364, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than \$5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered

by proceedings in the proper district court of the United States. In all such proceedings the United States district attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) With the approval of the Administrator, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.

42 U.S.C. 272

ADMINISTRATION OF OATHS

SEC. 369. Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States.

Part H—GRANTS TO ALASKA FOR MENTAL HEALTH ¹¹

GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

SEC. 371.¹² * * *

PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

SEC. 372.¹³ (a) There is hereby authorized to be appropriated an amount not exceeding the total sum of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

(b)¹⁴ Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by Alaska in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

¹¹ Pt. H was added by P.L. 830, 84th Congress. The part designation and the numbering of secs. 371 and 372 in P.L. 830, duplicates a new pt. H and secs. 371 and 372 also enacted in P.L. 941, 84th Congress. Any references to pt. H or the section numbers should include the title of the respective pt. H.

¹² Sec. 371 as added by the Alaska Mental Health Enabling Act (P.L. 830, 84th Congress) was repealed by subsec 31(b)(1) of P.L. 86-70.

¹³ Subsecs. 372 (a), (b), (c), and (e) amended by subsecs. 31(a) (2), (3), and (4) of P.L. 86-70.

¹⁴ Subsecs. 372 (a), (b), (c), and (e) amended by subsecs. 31(a) (2), (3), and (4) of P.L. 86-70.

(c)¹⁴ Upon certification by Alaska, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided however*, That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

(d) The term "cost of construction" means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

(e)¹⁴ If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under Alaska's mental health program, the United States shall be entitled to recover from Alaska the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which Alaska may have contributed to the cost of construction thereof.

PART H—NATIONAL LIBRARY OF MEDICINE¹⁵

42 U.S.C. 276

PURPOSE AND ESTABLISHMENT OF LIBRARY

SEC. 371.¹⁵ In order to assist the advancement of medical and related sciences, and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there is hereby established in the Public Health Service a National Library of Medicine (hereinafter referred to in this part as the "Library").

FUNCTIONS OF THE LIBRARY

42 U.S.C. 275

SEC. 372.¹⁵ (a) The Surgeon General, through the Library and subject to the provisions of subsection (c), shall—

¹⁵ Pt. H was added by P.L. 941, 84th Congress; transfer became effective October 1, 1956. The part designation and the numbering of secs. 371 and 372 in P.L. 941 duplicates a new pt. H and secs. 371 and 372 also enacted in P.L. 830, 84th Congress. Any references to pt. H or these section numbers should include the title of the respective pt. H.

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials, pertinent to medicine;

(2) organize the materials specified in clause (1) by appropriate cataloging, indexing, and bibliographical listing;

(3) publish and make available the catalogs, indexes, and bibliographies referred to in clause (2);

(4) make available, through loans, photographic or other copying procedures or otherwise, such materials in the Library as he deems appropriate;

(5) provide reference and research assistance; and

(6) engage in such other activities in furtherance of the purposes of this part as he deems appropriate and the Library's resources permit.

(b) The Surgeon General may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c) The Surgeon General is authorized, after obtaining the advice and recommendations of the Board (established under section 373), to prescribe rules under which the Library will provide copies of its publications or materials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution.

SEC. 373. (a) There is hereby established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the "Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of

medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The Surgeon General shall designate a member of the Library staff to act as executive secretary of the Board.

(b) It shall be the duty of the Board to advise, consult with, and make recommendations to the Surgeon General on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the Surgeon General shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Surgeon General is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

(c) Each appointed member of the Board shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office after the date of enactment of this part shall expire as follows: three at the end of four years after such date, three at the end of three years after such date, two at the end of two years after such date, and two at the end of one year after such date, as designated by the President at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term.

(d)¹⁶ Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$75 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

GIFTS TO LIBRARY

42 U.S.C. 278

SEC. 374. The provisions of section 501 shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of

¹⁶ Subsec. 373 (d) amended by sec. 4 of P.L. 89-291.

its functions, and the Surgeon General shall make recommendations to the Secretary of Health, Education, and Welfare relating to establishment within the Library of suitable memorials to the donors.

42 U.S.C. 279

DEFINITIONS

SEC. 375. For purposes of this part the terms "medicine" and "medical" shall, except when used in section 373, be understood to include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity.

42 U.S.C. 280

LIBRARY FACILITIES

SEC. 376. There are hereby authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Surgeon General in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums herein authorized to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

TRANSFER OF ARMED FORCES MEDICAL LIBRARY

SEC. 377. All civilian personnel, equipment, library collections, other personal property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions of the Armed Forces Medical Library, are hereby transferred to the Service for use in the administration and operation of this part. Such transfer of property, funds, and personnel, and the other provisions of this part, shall become effective on the first day, occurring not less than thirty days after the date of enactment of this part, which the Director of the Bureau of the Budget determines to be practicable.

42 U.S.C. 280a

REGIONAL BRANCHES OF THE NATIONAL LIBRARY OF MEDICINE¹⁷

SEC. 378. (a) Whenever the Surgeon General, with the advice of the Board, determines that—

¹⁷ Sec. 378 added by sec. 3 of P.L. 89-291.

(1) in any geographic area of the United States, there is no regional medical library adequate to serve such area;

(2) under the criteria prescribed in section 398, there is a need for a regional medical library to serve such area; and

(3) because there is located in such area no medical library which, under the provisions of section 398, can feasibly be developed into a regional medical library adequate to serve such area,

he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area.

(b) For the purpose of establishing branches of the National Library of Medicine under this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$2,000,000 for any fiscal year, as may be necessary. Sums appropriated pursuant to this section for any fiscal year shall remain available until expended.

PART I—ASSISTANCE TO MEDICAL LIBRARIES ¹⁸

DECLARATION OF POLICY AND STATEMENT OF PURPOSE

SEC. 390. (a) The Congress hereby finds and declares that (1) the unprecedented expansion of knowledge in the health sciences within the past two decades has brought about a massive growth in the quantity, and major changes in the nature of, biomedical information, materials, and publications; (2) there has not been a corresponding growth in the facilities and techniques necessary adequately to coordinate and disseminate among health scientists and practitioners the ever-increasing volume of knowledge and information which has been developed in the health science field; (3) much of the value of the ever-increasing volume of knowledge and information which has been, and continues to be, developed in the health science field will be lost unless proper measures are taken in the immediate future to develop facilities and techniques necessary to collect, preserve, store, process, retrieve, and facilitate the dissemination and utilization of, such knowledge and information.

(b) It is therefore the policy of this part to—

(1) assist in the construction of new, and the renovation, expansion, or rehabilitation of existing medical library facilities;

¹⁸ Pt. I added by sec. 2 of P.L. 89-291.

(2) assist in the training of medical librarians and other information specialists in the health sciences;

(3) assist, through the awarding of special fellowships to physicians and other practitioners in the sciences related to health and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to health;

(4) assist in the conduct of research and investigations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(5) assist in improving and expanding the basic resources of medical libraries and related facilities;

(6) assist in the development of a national system of regional medical libraries each of which would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(7) provide financial support to biomedical scientific publications.

DEFINITIONS

SEC. 391. As used in this part—

(1) the term “sciences related to health” includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto;

(2) the terms “National Medical Libraries Assistance Advisory Board” and “Board” mean the Board of Regents of the National Library of Medicine established under section 373(a) of this Act;

(3) the terms “construction” and “cost of construction”, when used with reference to any medical library facility, include (A) the construction of new buildings, and the expansion, remodeling, and alteration of existing buildings, including architects’ fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings (whether or not expanded, remodeled, or altered) for use as a library (including provision of automatic data processing equipment), but not with books, pamphlets, or related material;

(4) the term “medical library” means a library related to the sciences related to health.

NATIONAL MEDICAL LIBRARIES ASSISTANCE BOARD

SEC. 392. (a) The Board of Regents of the National Library of Medicine established pursuant to section 373(a) shall, in addition to its functions prescribed under section 373, constitute and serve as the National Medical Libraries Assistance Advisory Board (hereinafter in this part referred to as the "Board").

(b) The Board shall—

Functions

(1) advise and assist the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and

(2) consider all applications for construction grants under this part and make to the Surgeon General such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

(c) The Surgeon General is authorized to use the services of any member or members of the Board, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine.

(d) Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Surgeon General in connection with the administration of this part, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 373(d), when attending conferences, traveling, or serving at the request of the Surgeon General in connection with the administration of part H which deals with the National Library of Medicine.

Members,
compensation

42 U.S.C. 275-
280a

ASSISTANCE FOR CONSTRUCTION OF FACILITIES

SEC. 393. (a) In carrying out the purposes of section 390(b) (1), the Surgeon General may, upon application of any public or private nonprofit agency or institution, make grants to such agency or institution toward the cost of construction of any medical library facility to be constructed by such agency or institution.

Construction
grants

(b) A grant under this section may be made only if the application therefor is recommended for approval by the Board and is approved by the Surgeon General upon his determination that—

Conditions for
approval

(1) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the

facility will be used as a medical library facility, (B) subject to subsection (c), sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the purpose for which it is being constructed;

(2) the proposed construction is necessary to meet the demonstrated needs for additional or improved medical library facilities in the community or area in which the proposed construction is to take place;

(3) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on projects of the type covered by the Davis-Bacon Act, as amended, will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

49 Stat. 1011 ;
78 Stat. 238

5 U.S.C.
133z-15
Note
63 Stat. 108

(c) Within such aggregate monetary limit as the Surgeon General may prescribe, after consultation with the Board, applications which (solely by reason of the inability of the applicants to give the assurance required by clause (B) of subsection (b)(1)) fail to meet the requirements for approval set forth in subsection (b) may be approved upon condition that the applicants give the assurance required by such clause (B) within a reasonable time and upon such other reasonable terms and conditions as he may determine after consultation with the Board.

(d) In acting upon applications for grants under this section, the Board and the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in meeting demonstrated needs for additional or improved medical library services, and shall give priority to applications for construction of facilities for which the need is greatest.

(e) The amount of any grant made under this section shall be that recommended by the Board or such lesser amount as the Surgeon General determines to be appropriate; except that in no event may such amount exceed 75 per centum of the necessary cost of the construction of such facility as determined by him.

(f) Upon approval of any application for a grant under this section, the Surgeon General shall reserve,

from any appropriation available therefor, the amount of such grant as determined under subsection (e), and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement's facilities of the Department of the Treasury. The Surgeon General's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(g) In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this section, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(h) If, within twenty years after completion of any construction for which funds have been paid under this section—

Recovery of
Federal funds

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for medical library purposes, unless the Surgeon General determines, in accordance with regulations prescribed by him after consultation with the Board, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(i) For the purposes of carrying out the provisions of this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1967, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$10,000,000 for any fiscal year, as may be necessary.

Appropriation

GRANTS FOR TRAINING IN MEDICAL LIBRARY SCIENCES

SEC. 394. (a) In order to enable the Surgeon General to carry out the purposes of section 390(b)(2), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and

Appropriation

ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$1,000,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Surgeon General in making grants—

(1) to individuals to enable them to accept traineeships and fellowships leading to postbaccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private nonprofit institutions in developing, expanding, and improving, training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Surgeon General shall prescribe.

(b) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with the Board.

ASSISTANCE TO SPECIAL SCIENTIFIC PROJECTS

Fellowships,
establishment
Appropriation

SEC. 395. In order to enable the Surgeon General to carry out the purposes of section 390(b)(3), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$500,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Surgeon General for the establishment of special fellowships to be awarded to physicians and other practitioners in the sciences related to health and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In establishing such fellowships, the Surgeon General shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such fellowships are established.

RESEARCH AND DEVELOPMENT IN MEDICAL LIBRARY
SCIENCE AND RELATED FIELDS

SEC. 396. (a) In order to enable the Surgeon General to carry out the purposes of section 390(b) (4), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$3,000,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Surgeon General in making grants to appropriate public or private nonprofit institutions and entering into contracts with appropriate persons, for purposes of carrying out projects of research and investigations in the field of medical library science and related activities and for the development of new techniques, systems and equipment, for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

Appropriation

(b) Payment pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with the Board.

GRANTS FOR IMPROVING AND EXPANDING THE BASIC RESOURCES OF MEDICAL LIBRARIES AND RELATED INSTRUMENTALITIES

SEC. 397. (a) In order to enable the Surgeon General to carry out the purposes of section 390(b) (5), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$3,000,000 for any fiscal year, as may be necessary.

Appropriation

(b) Sums made available under this section shall be utilized by the Surgeon General for making grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of expanding and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (A) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (B) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (C) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment, and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (D) introduction of new technologies in medical librarianship.

Uses

Determination
of amount

(c) (1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Surgeon General on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Surgeon General shall take into account the following factors—

Factors

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2) In no case shall any grant under this section to a medical library or related instrumentality during any fiscal year exceed \$200,000, or, if lesser, an amount equal to—

(A) 60 per centum of the annual operating expenses of such library or related instrumentality, if such fiscal year is the first fiscal year with respect to which a grant under this section is made to it;

(B) (i) 50 per centum of the annual operating expenses of such library or related instrumentality, (ii) or, if lesser, five-sixths of the amount of its first year grant under this section, if such year is the second fiscal year with respect to which a grant under this section has been made to it;

(C) (i) 40 per centum of the annual operating expenses of such library or related instrumentality, (ii) or, if lesser, four-fifths of the amount of the second year grant under this section, if such year is the third fiscal year with respect to which a grant under this section has been made to it;

(D) (i) 30 per centum of the annual operating expenses of such library or related instrumentality, (ii) or, if lesser, three-fourths of the amount of the third year grant under this section, if such year is the fourth fiscal year with respect to which a grant under this section has been made to it; and

(E) (i) 20 per centum of the annual operating expenses of such library or related instrumentality, (ii) or, if lesser, two-thirds of the amount of the fourth year grant under this section, if such year is the fifth fiscal year with respect to which a grant under this section has been made to it.

The "annual operating expense" of a library or related instrumentality shall, for purposes of the preceding sentence, be an amount equal (if such annual operating expense is to be determined with respect to the first grant to be made to such library or instrumentality under this section) to the amount of the average of the annual operating expenses of such library or instrumentality over the three fiscal years preceding the year in which such grant is applied for; and if such library or related instrumentality has been operating for less than three years prior to applying for such grant, its "annual operating expense" shall be an amount determined by the Surgeon General pursuant to regulations prescribed by him. For the second or succeeding fiscal year in which a grant is made to a library or related instrumentality, the "annual operating expense" of such library or related instrumentality shall, for purposes of such sentence, be equal to its operating expense (exclusive of Federal financial assistance under this part) for the preceding fiscal year.

"Annual operating expense"

GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES

SEC. 398. (a) In order to enable the Surgeon General to carry out the purposes of section 390(b)(6), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$2,500,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Surgeon General, with the advice of the Board, to make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

Appropriation

(b) The uses for which grants made under this section may be employed include, but are not limited to, the following—

Uses

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of ma-

terials from the regional library to local libraries in the geographic area served by the regional library; and

(5) construction, renovation, rehabilitation, or expansion of physical plant considered necessary by such library to carry out its proper functions as a regional library.

Conditions for grants

(c) (1) Grants under this section shall be made only to medical libraries which agree (A) to modify and increase their library resources so as to be able to provide supportive services to other libraries in the region as well as individual users of library services, (B) to provide free loan services to qualified users, and make available photoduplicated or facsimile copies of biomedical materials which qualified requests may retain.

Priority factors

(2) The Surgeon General, in awarding grants under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, he shall consider—

(A) the need of such library, as determined by the levels of research, teaching, and medical activities of the library in relation to other existing library and medical communication services in the region;

(B) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(C) the size and nature of the population to be served in the region in which the library is located.

(d) Grants under this section for construction, renovation, rehabilitation, or expansion of physical plant shall be made in the same manner and subject to the same conditions as are provided for grants made under section 393, except that the eligibility for any such grant would be determined on the basis of the construction requirements of the library so as to be able to serve as a regional medical library. Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Surgeon General in accordance with regulations prescribed by him).

Limitation

(e) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with the Board.

FINANCIAL SUPPORT OF BIOMEDICAL SCIENTIFIC
PUBLICATIONS

SEC. 399. (a) In order to enable the Surgeon General to carry out the purposes of section 390(b)(7), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$1,000,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Surgeon General, with the advice of the Board, in making grants to, and entering into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

Appropriation.
Ante, p. 1059.

(b) Grants under this section in support of any single periodical publication may not be made for more than three years.

(c) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with the Board.

CONTINUING AVAILABILITY OF APPROPRIATED FUNDS

SEC. 399a. Funds appropriated to carry out any of the purposes of this part for any fiscal year shall remain available for such purposes for the fiscal year immediately following the fiscal year for which they were appropriated.

RECORDS AND AUDIT

SEC. 399b. (a) Each recipient of a grant under this part shall keep such records as the Surgeon General shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under the provisions of this part.

TITLE IV—NATIONAL RESEARCH INSTITUTES ¹⁹

PART A—NATIONAL CANCER INSTITUTE ²⁰

42 U.S.C. 281 TO BE A DIVISION IN NATIONAL INSTITUTES ²¹ OF HEALTH

SEC. 401. The National Cancer Institute shall be a division in the National Institutes ²¹ of Health.

42 U.S.C. 282 CANCER RESEARCH, AND SO FORTH

SEC. 402. In carrying out the purposes of section 301 with respect to cancer, the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Council, shall—

(a) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(b) promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

(c) provide training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(d) provide fellowships in the Institute from funds appropriated or donated for such purpose;

(e) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(f) cooperate with State health agencies in the prevention, control, and eradication of cancer;

(g) procure, use, and lend radium as provided in section 403.

42 U.S.C. 283

ADMINISTRATION

SEC. 403. (a) In carrying out the provisions of section 402 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and he is authorized—

¹⁹ The heading of Title IV was amended by sec. 2(a) of P.L. 692, 81st Congress.

²⁰ Sec. 3(b) of the National Heart Act (P.L. 655, 80th Congress) added the designation of secs. 401 to 406, inclusive, as pt. A.

²¹ Subtitle and sec. 401 were amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding "s" to "Institute."

(1)²² to purchase radium, from time to time without regard to section 3709 of the Revised Statutes, to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and pay them a per diem allowance during such training or instruction of not to exceed \$10.

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 501 of this Act, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Council. Donations of \$50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) In carrying out the purposes of section 402 grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Council made pursuant to section 404.

FUNCTIONS OF COUNCIL

42 U.S.C. 284

SEC. 404. The council is authorized—

(a) to review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 402, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

(b) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate

²² Par. (1) of subsec. (a) and subsec. (b) were amended by sec. 6(c) of the National Heart Act (P.L. 655, 80th Congress), by changing the word "title" to "part."

publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(c) to review applications from any university, hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

(d) to recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 of this Act; and

(e)²³ to make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

42 U.S.C. 285

APPROPRIATIONS

SEC. 405. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

42 U.S.C. 286

OTHER AUTHORITY

SEC. 406.²⁴ This title shall not be construed as limiting (a) the functions or authority of the Surgeon General or the Public Health Service under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (b) the expenditure of money therefor.

²³ Subsec. (e) was amended by sec. 6(c) of the National Heart Act (P.L. 655, 80th Congress), by changing the word "title" to "part".

²⁴ Sec. 406 was amended by sec. 4(a) of P.L. 692, 81st Congress.

PART B—NATIONAL HEART INSTITUTE²⁵

ESTABLISHMENT OF INSTITUTE

42 U.S.C. 287

SEC. 411. There is hereby established in the Public Health Service a National Heart Institute (hereafter in this part referred to as the "Institute").

HEART DISEASE RESEARCH AND TRAINING

42 U.S.C. 287a

SEC. 412. In carrying out the purposes of section 301 with respect to heart diseases the Surgeon General, through the Institute and in cooperation with the National Advisory Heart Council (hereinafter in this part referred to as the "Council"), shall—

(a) conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart diseases;

(b) promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(c) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(d) make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(e) establish an information center on research, prevention, diagnosis, and treatment of heart diseases, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(f) secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart diseases;

(g) in accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allow-

²⁵ Pt. B was added by sec. 3(b) of the National Heart Act (P.L. 655, 80th Congress).

ances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the the Council, to public and other nonprofit institutions.

42 U.S.C. 287b

ADMINISTRATION

SEC. 413. (a) In carrying out the provisions of section 412 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and grants-in-aid for heart disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 414.

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

42 U.S.C. 287c

FUNCTIONS OF THE COUNCIL

SEC. 414. The Council is authorized to—

(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart diseases, and certify approval to the Surgeon General, for prosecution under section 412, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart diseases;

(b) review applications from any university, hospital, laboratory, or other institution or agency,

whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart disease;

(c) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart diseases, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this Act;

(d) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart diseases, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(e) recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part; and

(f) advise, consult with, and make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

SEC. 415.²⁶

PART C—NATIONAL INSTITUTE OF DENTAL RESEARCH ²⁷

ESTABLISHMENT OF INSTITUTE

42 U.S.C. 288

SEC. 421. There is hereby established in the Public Health Service a National Institute of Dental Research (hereafter in this part referred to as the "Institute").

DENTAL DISEASE RESEARCH AND TRAINING

42 U.S.C. 288a

SEC. 422. In carrying out the purposes of section 301 with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council

²⁶ Sec. 415 was repealed by sec. 4(c) of P.L. 692, 81st Congress.

²⁷ Pt. C was inserted to further amend Title IV, by sec. 3(b) of the National Dental Research Act (P.L. 755, 80th Congress).

(hereafter in this part referred to as the "Council"), shall—

(a) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

(c) provide fellowships in the Institute from funds appropriated or donated for the purpose;

(d) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(e) cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(f) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

SEC. 423. (a) In carrying out the provisions of section 422 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 424.

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

SEC. 424. The Council is authorized to—

(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 422(a) hereof, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

(b) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

(c) review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 for carrying out the purpose of this part;

(e) make recommendations to the Surgeon General with respect to carrying out the provisions of this part; and

(f) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this Act.

SECS. 425 and 426.²⁸

²⁸ Secs. 425 and 426 were repealed by sec. 4(c) of P.L. 692, 81st Congress.

PART D—NATIONAL INSTITUTE ON ARTHRITIS, RHEUMATISM, AND METABOLIC DISEASES, NATIONAL INSTITUTE ON NEUROLOGICAL DISEASES AND BLINDNESS, AND OTHER INSTITUTES ²⁹

42 U.S.C. 289a

ESTABLISHMENT OF INSTITUTES

SEC. 431. (a) The Surgeon General shall establish in the Public Health Service an institute for research on arthritis, rheumatism, and metabolic diseases, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council is concerned.

(b) The Surgeon General is authorized with the approval of the Secretary to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 301 with respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this Act so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions.

42 U.S.C. 289b

ESTABLISHMENT OF NATIONAL ADVISORY COUNCILS

SEC. 432. (a) The Surgeon General is also authorized with the approval of the Secretary to establish additional national advisory councils to advise, consult with, and make recommendations to the Surgeon General on mat-

²⁹ Pt. D was added by sec. 2(b) of P.L. 692, 81st Congress.

ters relating to the activities of any institute established under subsection (b) of section 431, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of this title other than section 431(b)) as he may designate. Any such council, and each of the two councils established under section 413(a), shall consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary. The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) In lieu of appointment of an additional advisory council upon the establishment pursuant to subsection (b) of section 431 of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council established under section 431(a) or any other provision of this Act so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities or the existing institute are directed. In the case of any such expansion of an existing council, the membership thereof representing persons outstanding in activities with which the council is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council established under subsection (a) of this section or any expansion of an existing council under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expan-

sion of the existing institute which occasioned such new council or expansion of an existing council. In the case of any such expansion of an existing council, the Surgeon General may change the title thereof so as to reflect its new functions.

42 U.S.C. 289c

FUNCTIONS

SEC. 433. (a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 301 with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed, through such institute and in cooperation with the national advisory council established or expanded by reason of the establishment of such institute. In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in such institute and elsewhere, in matters relating to the diagnosis, prevention, and treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions. The provisions of this subsection shall also be applicable to any institute established by any other provision of this Act to the extent that such institute does not already have the authority conferred by this subsection.

(b) Upon the appointment of a national advisory council for an institute established under this part or the expansion of an existing institute pursuant to this part, such council shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed.

PART E ³⁰—INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

42 U.S.C.
281-289c

ESTABLISHMENT OF INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

SEC. 441. The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and require-

³⁰ Pt. E added by P.L. 87-838.

ments of mothers and children and in the basic sciences relating to the processes of human growth and development, including prenatal development.

ESTABLISHMENT OF INSTITUTE OF GENERAL MEDICAL SCIENCES

SEC. 442. The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and research training in the general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute, established under or by this Act.

ESTABLISHMENT OF ADVISORY COUNCILS

SEC. 443. (a) The Surgeon General is authorized, with the approval of the Secretary, to establish an advisory council to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of the institute established under section 441. He may also, with such approval, establish such a council with respect to the activities of the institute established under section 442.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to any council established under this section, except that, in lieu of the requirement in such sections that six of the members be outstanding in the study, diagnosis, or treatment of a disease or diseases, six of such members shall be selected from leading medical or scientific authorities who are outstanding in the field of research or training with respect to which the council is being established, and except that the Surgeon General, with the approval of the Secretary, may include on any such council established under this section such additional ex officio members as he deems necessary in the light of the functions of the institute with respect to which it is established.

(c) Upon appointment of any such council, it shall assume all or such part as the Surgeon General may, with the approval of the Secretary, specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council established under this part is concerned and such portion as the Surgeon General may specify (with such approval) of the duties, functions, and powers of any other advisory council established under this Act relating to such projects.

SEC. 444. The Surgeon General shall, through an institute established under this part, carry out the purposes of sections 301 with respect to the conduct and support of research which is a function of such institute, except that the Surgeon General shall, with approval of the Secretary determine the areas in which and the extent to which he will carry out such purposes of section 301 through such institute or an institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter. The Surgeon General is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the institute established under section 441 and elsewhere in matters relating to diagnosis, prevention, and treatment of a disease or diseases or in other aspects of maternal health, child health, and human development, with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instructions and traineeships and for such fellowships through grants to public or other nonprofit institutions.

PRESERVATION OF EXISTING AUTHORITY

SEC. 445. Nothing in this part shall be construed as affecting the authority of the Secretary under section 2 of the Act of April 9, 1912 (42 U.S.C. 192), or title V of the Social Security Act (42 U.S.C., ch. 7, subch. V), or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this Act for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.

TITLE V—MISCELLANEOUS

GIFTS

42 U.S.C. 219

SEC. 501. (a) The Secretary is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for

the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

(e)³¹ Donations of \$50,000 or over in aid of research may be acknowledged by the establishment of suitable memorials to the donors within the National Institutes of Health or, where appropriate, within the National Institute of Mental Health.

42 U.S.C. 220

USE OF IMMIGRATION STATION HOSPITALS

SEC. 502. The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 322(a).

42 U.S.C. 221

MONEY COLLECTED FOR CARE OF PATIENTS

SEC. 503. Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation.

³¹ Subsec. (e) was amended by sec. 10 of the National Mental Health Act (P.L. 487, 79th Congress) and sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress).

from which the expenses of such care and treatment were paid.

CARE OF PUBLIC HEALTH SERVICE PATIENTS AT SAINT ELIZABETHS HOSPITAL 42 U.S.C. 222

SEC. 504. Insane patients entitled to treatment by the Service shall be admitted, upon order of the Secretary, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service.³²

SETTLEMENT OF CLAIMS

42 U.S.C. 223

SEC. 505. The Secretary may consider, ascertain, adjust, and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Secretary within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding \$3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States.

TRANSPORTATION OF REMAINS OF OFFICERS

42 U.S.C. 224

SEC. 506. Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this Act shall also be available for the payment of such expenses relating to the recovery, care, and disposition of the remains of personnel or their depend-

³² The last sentence of sec. 504 was added by sec. 6 of P.L. 781, 80th Congress.

ents as may be authorized under other provisions of law.³³

GRANTS TO FEDERAL INSTITUTIONS

SEC. 507.³⁴ Appropriations to the Public Health Service available for research, training, or demonstration project grants pursuant to this Act shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital.

42 U.S.C. 226

TRANSFER OF FUNDS

SEC. 508. For the purpose of any reorganization under section 202, the Secretary, with the approval of the Director of the Bureau of the Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

42 U.S.C. 227

AVAILABILITY OF APPROPRIATIONS

SEC. 509. Appropriations for carrying out the purposes of this Act shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.³⁵

³³ The last sentence of sec. 506 was added by sec. 14(b) of the Act of July 15, 1954, 68 Stat. 481.

³⁴ Effective July 1, 1968, a new sec. 507 is added by sec. 5 of P.L. 90-31.

³⁵ Sec. 509 was amended by sec. 7 of P.L. 781, 80th Congress. Note that the term "National Institute of Health" did not appear in this section on the effective date of sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) which directed that the term, wherever appearing in the Public Health Service Act, be changed to "National Institutes of Health."

UNAUTHORIZED WEARING OF UNIFORMS

42 U.S.C. 228

SEC. 510.³⁶ Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.

ANNUAL REPORT

42 U.S.C. 229

SEC. 511. The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.

³⁶ Amended by the Act of June 25, 1948, 62 Stat. 859.

TITLE VI—ASSISTANCE FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES ³⁷

DECLARATION OF PURPOSE

SEC. 600. The purpose of this title is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

PART A—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1965, and each of the next four fiscal years—

(1) \$70,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) \$20,000,000 for grants for the construction of public or other nonprofit diagnostic or treatment centers;

(3) \$10,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

³⁷ Title VI was completely revised by sec. 3(a) P.L. 88-443.

(b) for grants for the construction of public or other nonprofit hospitals and public health centers and for grants for modernization of such facilities and the facilities referred to in paragraph (a), \$150,000,000 for the fiscal year ending June 30, 1965, \$160,000,000 for the fiscal year ending June 30, 1966, \$170,000,000 for the fiscal year ending June 30, 1967, and \$180,000,000 each for the next two fiscal years.

STATE ALLOTMENTS

SEC. 602. (a) (1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), and to an allotment bearing the same ratio to the new hospital portion of the sums appropriated for such year pursuant to section 601(b), as the product of—

(A) the population of such State, and

(B) the square of its allotment percentage, bears to the sum of the corresponding products for all of the States. As used in this paragraph, the new hospital portion of sums appropriated pursuant to section 601(b) (which portion shall be available for grants for the construction of public or other nonprofit hospitals and public health centers) is 100 per centum of such sums in the case of the fiscal year ending June 30, 1965, seven-eighths thereof in the case of the first fiscal year thereafter, twenty-seven thirty-fourths thereof in the case of the second fiscal year thereafter, thirteen-eightieths thereof in the case of the third fiscal year thereafter, twenty-five thirty-sixths thereof in the case of the fourth fiscal year thereafter.

(2) ³⁸ For each fiscal year beginning after June 30, 1965, the Surgeon General shall, in accordance with regulations, make allotments from the remainder of the sums appropriated pursuant to section 601(b) (which portion shall be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 601) on the basis of the population, the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 601, and the financial need of the respective States.

(b) (1) The allotment to any State under subsection (a) for fiscal year which is less than—

(A) \$25,000 for the Virgin Islands, American Samoa, or Guam and \$50,000 for any other State, in

³⁸ Sec. 3(b)(5) of P.L. 89-443, provided for the following exception in sec. 602(a)(2) of the PHS Act: "no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under section 602(a)(2) of the Public Health Service Act, as amended by this Act, before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4) (E) as well as the other requirements of section 604 of such act as so amended."

the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities,

(B) \$50,000 for the Virgin Islands, American Samoa, or Guam and \$200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit diagnostic or treatment centers, or

(C) \$100,000 for the Virgin Islands, American Samoa, Guam and \$200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 601,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2) An allotment of the Virgin Islands, American Samoa, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) For the purposes of this part—

(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than $33\frac{1}{3}$ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 75 per centum.

(2) ³⁹ The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be con-

³⁹ Sec. 3(b)(2) of P.L. 88-443, provided for the following exception in sec. 602(c)(2) of the P.H.S. Act: "allotment percentages promulgated by the Surgeon General under such title VI during 1962 shall continue to be effective for purposes of such title as amended by this Act for the fiscal year ending June 30, 1965."

clusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

(4) The term "United States" means (but only for purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) (1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), in addition to the sums allotted to such State for such purpose for such next fiscal year.

(2) Any sum allotted to the Virgin Islands, American Samoa, or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) (1) Upon the request of any State that—

(A) a specified portion of any allotment of such State under paragraph (1) of subsection (a), other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under paragraph (1) or (2) of such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, or

(B) a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection,

and upon simultaneous certification to the Surgeon General by the State agency in such State to the effect that—

(C) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or

(D) in the case of a request to transfer a portion of an allotment under paragraph (1) of subsection (a) for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Surgeon General shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(2) In addition to the transfer of portions of allotments under paragraph (1), the Surgeon General, upon

the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers and upon simultaneous certification to him by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 601, shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that not more than the following portions of allotments of a State under paragraph (2) of subsection (a) may be added (under this paragraph) to allotments of such State under paragraph (1) of such subsection:

(A) in the case of an allotment under paragraph (2) of subsection (a) for the fiscal year ending June 30, 1966, one-half of such allotment;

(B) in the case of an allotment thereunder for the fiscal year ending June 30, 1967, three-sevenths of such allotment;

(C) in the case of an allotment thereunder for the fiscal year ending June 30, 1968, two-fifths of such allotment; and

(D) in the case of an allotment thereunder for the fiscal year ending June 30, 1969, five-elevenths of such allotment.

(3) After adjustment of allotments of any State as provided in paragraph (1) or (2) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this title, such portion of such State's allotment shall be added to the corresponding allotment

of the other State, to be used for the purpose referred to above.

GENERAL REGULATIONS

SEC. 603. The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe—

(a) the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving rural communities and areas with relatively small financial resources;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision; [and]

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas; and [-] ⁴⁰

(b) general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

(c) criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

(d) criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

(e) that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reason-

⁴⁰ Sec. 3(a) of P.L. 88-581, amended sec. 603(a), effective July 1, 1965, by deleting clause (4).

able volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

STATE PLANS

SEC. 604. (a) Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 603 and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the diagnostic or treatment centers needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such centers throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons

residing in the State, and a plan for distribution of such facilities throughout the State; and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 601 (a) or (b) in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) and regulations prescribed under section 603 and providing for construction or modernization of the hospital or long-term care facilities, public health centers, diagnostic or treatment centers, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4);

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 603, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10); and

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary.

(b) The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a), the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

APPROVAL OF PROJECTS FOR CONSTRUCTION OR MODERNIZATION

SEC. 605.⁴¹ (a) For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

- (1) a description of the site for such project;
- (2) plans and specifications therefor, in accordance with regulations prescribed under section 603;
- (3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;
- (4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;
- (5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and
- (6) a certification by the State agency of the Federal share for the project.

⁴¹ Sec. 3(b)(1) of P.L. 88-443, provided for the following exception in sec. 605 of the P.H.S. Act: "all applications approved by the Surgeon General under title VI of the Public Health Service Act prior to such date [Aug. 18, 1964] and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date."

(b) The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 603; (3) that the application is in conformity with the State plan approved under section 604 and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 603(e), and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 603(a). Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

(c) No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e) Notwithstanding any other provision of this title, no application for a diagnostic or treatment center shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 625).

PAYMENTS FOR CONSTRUCTION OR MODERNIZATION

SEC. 606. (a) Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 607, payment may, after he has given the State

agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) In case an amendment to an approved application is approved as provided in section 605 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) (1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 2 per centum of the total of the allotments of such State for a year, or \$50,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1964.

WITHHOLDING OF PAYMENTS

SEC. 607. Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 604(a) (1), finds—

(a) that the State agency is not complying substantially with the provisions required by section 604 to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 605 is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 605; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 601, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section, as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

JUDICIAL REVIEW

SEC. 608. (a) If the Surgeon General refuses to approve any application for a project submitted under section 605 or section 610, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 607 such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact

shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

RECOVERY

SEC. 609. If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction—

(a) be sold or transferred to any person, agency, organization (1) which is not qualified to file an application under section 605, or (2) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

(b) cease to be a public health center or a public or other nonprofit hospital, diagnostic or treatment center, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.

LOANS FOR CONSTRUCTION OR MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SEC. 610. (a) In order further to assist the States in carrying out the purposes of this title, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Except as provided in this section, an application for a loan with respect to any project under this part

shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c)(1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 609 occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.

PART B—GENERAL

FEDERAL HOSPITAL COUNCIL AND ADVISORY COMMITTEES

SEC. 621.⁴² (a) In administering this title, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to represent the consumers of services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after enactment of this section) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

(e) Appointed Council members and members of advisory or technical committees, while serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$75 per day, including travel time, and, while so serving away from their places of residence, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

⁴² Sec. 3(b) (3) of P.L. 88-443, provided for the following in sec. 621 of the P.H.S. Act: "the terms of members of the Federal Hospital Council who are serving on such Council prior to such date shall expire on the date they would have expired had this Act not been enacted."

CONFERENCE OF STATE AGENCIES

SEC. 622. Whenever in his opinion the purposes of this title would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 604, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request.

STATE CONTROL OF OPERATIONS

SEC. 623. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

LOANS FOR CERTAIN HOSPITAL EXPERIMENTATION
PROJECTS

SEC. 623A.⁴³ (a) In order to alleviate hardship on any recipient of a grant under section 636 of this title (as in effect immediately before the enactment of the Hospital and Medical Facilities Amendments of 1964) for a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding 66 $\frac{2}{3}$ per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Each such loan shall bear interest at the rate of 2 $\frac{1}{2}$ per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) There are hereby authorized to be appropriated \$3,500,000 to carry out the provisions of this section.

⁴³ Sec. 623A added by sec. 11 of P.L. 90-174.

STUDIES AND DEMONSTRATIONS RELATING TO COORDINATED
USE OF HOSPITAL FACILITIES

SEC. 624.⁴⁴

DEFINITIONS

SEC. 625. For the purposes of this title—

(a) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the District of Columbia.

(b) The term "Federal share" with respect to any project means the proportion of the cost of construction of such project to be paid by the Federal Government, determined as follows:

(1) With respect to projects for which grants are made from allotments made from appropriations under paragraph (b) of section 601, the Federal share shall be whichever of the following the State elects:

(A) the share determined by the State agency in accordance with standards, included in the State plan, which provide equitably for variations between projects on the basis of objective criteria related to the economic status of areas and, if the State so elects, such other factor or factors as may be appropriate and be permitted by regulations, except that such standards may not provide for a Federal share of more than $66\frac{2}{3}$ per centum, or less than $33\frac{1}{3}$ per centum, or

(B) the amount (not less than $33\frac{1}{3}$ per centum and not more than either $66\frac{2}{3}$ per centum or the State's allotment percentage, whichever is lower) established by the State agency for all projects in the State;

(2) With respect to projects for which grants are made from allotments made from appropriations under paragraph (a) of section 601, the Federal share shall be whichever of the following the State elects:

(A) the share determined by the State agency in accordance with the standards, included in the State plan, and meeting the requirements set forth in subparagraph (A) of paragraph (1),

(B) the amount (not less than $33\frac{1}{3}$ per centum and not more than either $66\frac{2}{3}$ per centum or the State's allotment percentage, whichever is lower) established by the State agency for all projects in the State, or

(C) 50 per centum of the cost of construction of the project.

⁴⁴ With respect to appropriations for fiscal years ending after June 30, 1967, sec. 624 was repealed by sec. 3(b) of P.L. 90-174. Any sums appropriated for the fiscal year ending June 30, 1968, for carrying out sec. 624 which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act.

The State agency shall, prior to the approval by it, under the State plan approved under part A, of the first project in the State during any fiscal year, give written notification to the Surgeon General of the Federal share which it has elected pursuant to paragraph (1), and the Federal share which it has elected pursuant to paragraph (2), of this subsection for projects in such State to be approved by the Surgeon General during such fiscal year, and such Federal share or shares for projects in such State approved by the Surgeon General during such fiscal year shall not be changed after approval of such first project by the State.

(c) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, [nurses' home facilities,]⁴⁵ and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(d) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

(g) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services, under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health

⁴⁵ Sec. 3(a) of P.L. 88-581, amended sec. 625(c), effective July 1, 1965, by deleting the words "and training."

services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h) The term "facility for long-term care" means a facility providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i) The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(j) The term "cost" as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 602(a)(2), does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term "modernization" includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(l) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project.

TITLE VII—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL⁴⁶

PART A—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES

DECLARATION OF POLICY

42 U.S.C. 292

SEC. 701. (a) The Congress hereby finds and declares that (1) the Nation's economy, welfare, and security are adversely affected by many crippling and killing diseases the prevention and control of which require a substantial increase, in all areas of the Nation, of research activities in the sciences related to health, and (2) funds for the construction of new and improved non-Federal facilities to house such activities are inadequate.

(b) It is therefore the purpose of this part to assist in the construction of facilities for the conduct of research in the sciences related to health by providing grants-in-aid on a matching basis to public and nonprofit institutions for such purpose.

DEFINITIONS

42 U.S.C. 292a

SEC. 702. As used in this part—

(1) the term "Council" means the National Advisory Council on Health Research Facilities established by section 703;

(2) the terms "construction" and "cost of construction" include (A) the construction of new buildings, and the expansion, remodeling and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(3) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

⁴⁶ Sec. 2(a) of P.L. 88-129 amended the heading of title VII; added the designation of sec. 701 to 711, inclusive, as a new pt. A; and changed the words "this title" wherever they appeared in the new pt. A to read "this part."

NATIONAL ADVISORY COUNCIL ON HEALTH RESEARCH
FACILITIES

SEC. 703. (a) There is hereby established in the Public Health Service a National Advisory Council on Health Research Facilities, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and an official of the National Science Foundation designated by the National Science Board, who shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil-service laws. Four of the appointed members shall be selected from the general public and eight shall be selected from among leading medical, dental, or scientific authorities who are skilled in the sciences related to health. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the planning, constructing, financing, and administration of institutions engaged in the conduct of research in the sciences related to health, and (2) familiarity with the need for research facilities in all areas of the Nation.

(b) The Council shall—

(1) advise and assist the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part; and

(2) consider all applications for grants under this part and make to the Surgeon General such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

(c) The Surgeon General is authorized to use the services of any member or members of the Council, and where appropriate, any member or members of the Federal Hospital Council, the National Advisory Health Council or the other national advisory councils referred to in section 217 of this Act, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council, the Federal Hospital Council, the National Advisory Health Council and such other national advisory councils, with respect to matters bearing on the purposes and administration of this part.

(d) Appointed members of the Council, while attending conferences or meetings of the Council or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary but not exceeding \$50 per diem, including travel time, and while away from their homes or regular

places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 292c

SEC. 704. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the nine succeeding fiscal years, not to exceed \$50,000,000, and for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, an aggregate of not to exceed \$280,000,000, for making grants-in-aid for the construction of facilities for research, or research and related purposes, in the sciences related to health; and any sums appropriated pursuant to this section shall remain available until expended.⁴⁷

APPROVAL OF APPLICATIONS

42 U.S.C. 292d

SEC. 705. (a) Applications for grants under this part shall be made not later than June 30, 1968.

(b) To be eligible to apply for a grant under this part, the applicant must be a public or nonprofit institution, determined by the Surgeon General, after consultation with the Council, to be competent to engage in the type of research for which the facility is to be constructed.

(c) A grant under this part may be made only if the application therefor is recommended for approval by the Council and is approved by the Surgeon General upon his determination that—⁴⁸

(1) the applicant meets the eligibility conditions set forth in subsection (b);

(2)⁴⁹ the application contains or is supported by reasonable assurances that (A) for not less than ten years after completion of construction, the facility will be used for the purposes of research, or research and related purposes, in the sciences related to health for which it is to be constructed, (B) subject to subsection (d), sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research, or research and related purposes, for which it is being constructed;

(3) the proposed construction will expand the applicant's capacity for research in the sciences related to health, or is necessary to improve or maintain the quality of the applicant's research in the sciences related to health; and,

⁴⁷ Secs. 704 and 705(a) amended by sec. 2 of P.L. 89-115.

⁴⁸ Sec. 705(c) amended by sec. 3 of P.L. 88-129.

⁴⁹ Sec. 705(c) (2) and (3) amended, and (4) added by sec. 3 of P.L. 88-129.

(4) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) Within such aggregate monetary limit as the Surgeon General may prescribe, after consultation with the Council, applications which (solely by reason of the inability of the applicants to give the assurance required by clause (B) of subsection (c) (2)) fail to meet the requirements for approval set forth in subsection (c) may be approved upon condition that the applicants give the assurance required by such clause (B) within a reasonable time and upon such other reasonable terms and conditions as he may determine after consultation with the Council.

(e) In acting upon applications for grants, the Council and the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding capacity for research, or research and related purposes, in the sciences related to health, in improving the quality of such research or related purposes and in promoting an equitable geographical distribution of such research (giving due consideration to population, available scientific research workers, and available research resources in various areas of the Nation).⁵⁰

42 U.S.C. 292e

AMOUNT OF GRANT; PAYMENTS

SEC. 706. (a) The amount of any grant made under this part shall be that recommended by the Council or such lesser amounts as the Surgeon General determines to be appropriate; except that in no event may such amount exceed 50 per centum of the necessary cost of the construction of such facility as determined by him, in the case of a facility which the Surgeon General determines is to be used for research, or research and purposes related thereto (including research training), in the sciences related to health or, in the case of any other multi-purpose facility, 50 per centum of the part of the necessary cost of construction which the Surgeon General determines to be proportionate to the contemplated use of the facility for research or research and related purposes, in the sciences related to health.

⁵⁰ Secs. 705 (e) and 706 (a) amended by sec. 8 of P.L. 87-395.

(b) Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a), and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement facilities of the Department of the Treasury. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

RECAPTURE OF PAYMENTS

42 U.S.C. 292f

SEC. 707. If, within ten years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(b) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

42 U.S.C. 292g

SEC. 708. Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related

purposes conducted by, and the personnel or administration of, any institution.⁵¹

42 U.S.C. 292h

REGULATIONS

SEC. 709. (a) Within six months after the enactment of this part, the Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such administrative and other regulations as he finds necessary to carry out the provisions of this part.

42 U.S.C. 292i

REPORTS

SEC. 710. On or before January 15, 1957, and annually thereafter, the Surgeon General, in consultation with the Council, shall prepare an annual report and submit it to the President for transmission to the Congress, summarizing the activities under this part and making such recommendations as he may deem appropriate. The report to be submitted on or before January 15, 1958, shall include an appraisal of the current program under this part in the light of its adequacy to meet the long-term needs for funds for the construction of non-Federal facilities for research in the sciences related to health. Such reports and appraisals shall include minority views and recommendations, if any, of members of the Council.

42 U.S.C. 292j

TECHNICAL ASSISTANCE

SEC. 711.⁵² The Surgeon General is authorized to provide assistance to applicants under this part, and other public or nonprofit institutions engaging or competent to engage in research, or research and related purposes, in the sciences related to health, in designing and planning the construction of facilities for the conduct of such research or research and related purposes.

PART B—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL⁵³

42 U.S.C. 293

AUTHORIZATION OF APPROPRIATIONS

SEC. 720.⁵⁴ There are hereby authorized to be appropriated \$480,000,000 for the three fiscal years in the period beginning July 1, 1966, and ending June 30, 1969, of which not more than \$160,000,000 may be available for

⁵¹ Secs. 707(b) and 708 amended by sec. 8 of P.L. 87-395.

⁵² Sec. 711 added by sec. 3 of P.L. 88-129.

⁵³ Pt. B added by sec. 2(b) of P.L. 88-129.

⁵⁴ Sec. 720 amended by sec. 2(a) of P.L. 89-709.

grants before July 1, 1967, and not more than \$320,000,000 may be available for grants before July 1, 1968, for—

(1) grants to assist in the construction of new teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, or professional public health personnel;

(2) grants to assist in the construction of new teaching facilities for the training of dentists; and

(3) grants to assist in the replacement or rehabilitation of existing teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, professional public health personnel, or dentists. Sums so appropriated shall remain available until expended.

APPROVAL OF APPLICATIONS

42 U.S.C. 293a

SEC. 721. (a)⁵⁵ The Surgeon General may from time to time set time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b)⁵⁶ (1) To be eligible to apply for a grant to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for a grant to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies: (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital, an application which is approved by the school of medicine or school of osteopathy with which the hospital is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 625.

⁵⁵ Sec. 721 (a) amended by sec. 3 (b) of P.L. 89-290.

⁵⁶ Sec. 721 (b) amended by sec. 2 (b) (1) of P.L. 89-709.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this part to assist in the construction of a facility which is a hospital as defined in section 631—

(A) if the facility is needed in connection with a new school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity,

(C) if the construction is in connection with renovation or rehabilitation of facilities used by an existing school, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such school for the facilities in order to prevent curtailment of enrollment or quality of training of the school,

shall be regarded as the project with respect to which payments may be made under section 722.

(c)⁵⁷ A grant under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b);

(2) the application contains or is supported by reasonable assurances that (A) for not less than ten years after completion of construction, the facility will be used for the purposes of the teaching for which it is to be constructed, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by

⁵⁷ Sec. 721 (c) amended by sec. 2(b) (1) of P.L. 89-709.

five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 771(b) of this Act, where applicable;

(3) (A) in the case of an application for a grant from funds appropriated pursuant to clause (1) of section 720, such application is for aid in the construction of a new school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, (B) in the case of an application for a grant from funds appropriated pursuant to clause (2) of such section, such application is for aid in the construction of a new school of dentistry or construction which will expand the capacity of an existing school of dentistry, or (C) in the case of an application for a grant from funds appropriated pursuant to clause (3) of such section, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, osteopathy, or public health which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(6) if the application requests aid in construction of a facility which is a hospital or diagnostic or treatment center, as defined in section 631, an application with respect thereto has been filed under title VI and has been denied thereunder because (A) the project has no or insufficient priority, or (B) funds are not available for the project from the State's allotments under title VI.

Before approving or disapproving an application under this part, the Surgeon General shall secure the advice of

the National Advisory Council on Education for Health Professions established by section 725 (hereinafter in this part referred to as the "Council").

(d)⁵⁸ In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of, or used by, an existing school, the relative effectiveness of the proposed facilities in expanding the capacity for the training of a first-year students of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or osteopathy (or, in the case of a two-year school which is expanding to a four-year school, expanding the capacity for four-year training of students in the field), or for the training of professional public health personnel, and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, available physicians, pharmacists, optometrists, podiatrists, veterinarians, dentists, or professional public health personnel, and available resources in various areas of the Nation for training such persons); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of, or used by, a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State planning agency, or which participates in a regional or other interstate planning agency, described in section 728, the relationship of the application to the construction or training program which is being developed by such agency with respect to such State and, if such agency has reviewed such application, any comment thereon submitted by such agency.

SEC. 722. (a) (1) Except as provided in paragraph (2) of this subsection, the amount of any grant under this part shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for new facilities for an existing school in cases where such

⁵⁸ Sec. 721 (d) amended by secs. 2 (b) (1) and (2) of P.L. 89-709.

facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed $66\frac{2}{3}$ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) The amount of any grant under this part for construction of a project with respect to a school of public health shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council, and may not exceed 75 per centum of the necessary cost of construction, as determined by the Surgeon General, of such project.

(b) Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

RECAPTURE OF PAYMENTS

42 U.S.C. 293c

SEC. 723. If, within ten years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit school or, in case the facility was an affiliated hospital, the applicant or other owner of the facility ceases to be a public or other nonprofit agency qualified to file an application under section 625, or

(b) the facility shall cease to be used for the teaching purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

(c) the facility is used for sectarian instruction or as a place for religious worship.
 the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

42 U.S.C. 293d

DEFINITIONS

SEC. 724.⁵⁹ As used in this part and parts C, E, and F—

(1) The terms "construction" and "cost of construction" include (A) the construction of new buildings, the expansion of existing buildings, and remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(3) The term "affiliated hospital" means a hospital, as defined in section 631, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine or school of osteopathy which meets the eligibility conditions set forth in section 721(b)(1);

(4)⁶⁰ The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or doctor of pharmacy, a degree of doctor of optometry or an

⁵⁹ Sec. 724 amended by sec. 2(b) of P.L. 89-290.

⁶⁰ Sec. 724(4) amended by sec. 2(c) of P.L. 89-709.

equivalent degree, a degree of doctor of podiatry or doctor or surgical chiropody, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health; and

(5) The term "school of nursing" means a department, school, division, or other administrative unit, in a college or university, which provides, primarily or exclusively, a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or other baccalaureate degree of equivalent rank; or to a graduate degree in nursing.

NATIONAL ADVISORY COUNCIL ON EDUCATION FOR HEALTH
PROFESSIONS

42 U.S.C. 293e

SEC. 725. (a)⁶¹ There is hereby established in the Public Health Service a National Advisory Council on Education for Health Professions, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and seventeen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and thirteen shall be selected from among leading authorities in the fields of higher education, at least nine of whom are particularly concerned with training in medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or the public health professions. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the planning, constructing, financing, or administration of schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or schools of public health, and (2) familiarity with the need for teaching facilities in all areas of the Nation.

(b) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and in the review of applications thereunder.

(c) The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council and the National Advisory Council on Health Research Facilities with respect to matters bearing on the purposes and administration of this part.

⁶¹ Sec. 725(a) amended by sec. (c) of P.L. 90-174.

(d)⁶² Appointed members of the Council, while attending conferences or meetings of the Council or while otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Secretary but not exceeding \$100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

42 U.S.C. 293f

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 726. Nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

42 U.S.C. 293g

REGULATIONS

SEC. 727. (a) The Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations for this part covering the eligibility of institutions, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of institutions.

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such other regulations as he finds necessary to carry out the provisions of this part.

42 U.S.C. 293h

TECHNICAL ASSISTANCE

SEC. 728.^{62a} In carrying out the purposes of this part, and to further the development of State, or joint or coordinated regional or other interstate, planning of programs for relieving shortages of training capacity in the fields of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and public health, through constructing teaching facilities, providing adequate financial support for schools, or otherwise, the Surgeon General is authorized to provide technical assistance and consultative services to State or interstate planning agencies established for any of such purposes.

⁶² Sec. 725(d) amended by sec. 3(a) of P.L. 89-751.

^{62a} Sec. 3(a) of P.L. 88-581, amended sec. 728, by deleting "nursing".

PART C—STUDENT LOANS

LOAN AGREEMENTS

42 U.S.C. 294

SEC. 740. (a)⁶³ The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part with any public or other non-profit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 721(b)(1)(B).

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund of (A)^{64, 65} the Federal capital contributions to the fund, (B)⁶⁴ an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, and (D) any other earnings of the fund;

(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4)⁶³ provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree, and that while the agreement remains in effect no such student who has attended such school before July 1, 1969, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

⁶³ Secs. 740(a) and (b)(4) amended by secs. 3 (a) and (b), respectively, of P.L. 89-709.

⁶⁴ Secs. 740(b)(2) (A) and (B) amended by sec. 5(c)(1) of P.L. 89-751.

⁶⁵ Sec. 740(b)(2) (A) amended by:

(a) Sec. 5(d)(1) of P.L. 89-751 to “* * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 744 of the Public Health Service Act as in effect prior to the enactment of this Act.”

(b) Sec. 5(d)(2) of P.L. 89-751, to authorize the Secretary of Health, Education, and Welfare, “* * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 740(b)(2)(A) of the Public Health Service Act) to a student loan fund of such institution, made under title VII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 744 of such Act as amended by this Act.”

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

42 U.S.C. 294a

LOAN PROVISIONS

SEC. 741. (a)⁶⁶ Loans from a loan fund established under this part may not exceed \$2,500 for any student for any academic year or its equivalent. In the granting of such loans, a school shall give preference to persons who enter as first-year students after June 30, 1963.

(b)⁶⁷ Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c)⁶⁷ Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins three years after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act.

(d) The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

(e)⁶⁸ Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum, or the going Federal rate at the time the loan is made, whichever rate is the greater. For purposes of this subsection, the term "going Federal rate" means the rate of interest which the Secretary of the Treasury specifies during June of each year for purposes of loans made during the fiscal year beginning on the next July 1, determined by estimating the average yield to maturity, on the basis of daily closing market quotations or prices during the preceding May on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May, and by rounding off such estimated average an-

⁶⁶ Sec. 741(a) amended by sec. 4(b)(1) of P.L. 89-290.

⁶⁷ Secs. 741(b) and (c) amended by secs. 3(c) and (d), respectively of P.L. 89-709.

⁶⁸ Sec. 741(e) amended by sec. 4(g)(1) of P.L. 89-290.

nual yield to the next higher multiple of one-eighth of 1 per centum. Notwithstanding the foregoing provisions of this subsection, the rate of interest determined in accordance with such provisions for the first loan obtained by a student from a loan fund established under this part shall also apply to any subsequent loan to such student from such fund during his course of study.

(f)⁶⁹ Where any person who obtained one or more loans from a loan fund established under this part—

(1) engages in the practice of medicine, dentistry, optometry, or osteopathy in an area in a State determined by the appropriate State health authority, in accordance with regulations provided by the Secretary, to have a shortage of and need for physicians, optometrists or dentists; and

(2) the appropriate State health authority certifies to the Secretary of Health, Education, and Welfare in such form and at such times as the Secretary may prescribe that such practice helps to meet the shortage of and need for physicians, optometrists or dentists in the area where the practice occurs; then 10 per centum of the total of such loans, plus accrued interest on such amount, which are unpaid as of the date that such practice begins, shall be canceled thereafter for each year of such practice, up to a total of 50 per centum of such total, plus accrued interest thereon.

In the case of a physician, dentist, or optometrist, the rate shall be 15 per centum (rather than 10 per centum) for each year of such practice in an area in a State which for purposes of this subsection and for that year has been determined by the Secretary, pursuant to regulations and after consultation with the appropriate State health authority, to be a rural area characterized by low family income; and, for the purpose of any cancellation pursuant to this sentence, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled.

(g)⁷⁰ Loans shall be made under this part without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h)⁷⁰ No note or other evidence of a loan made under this part may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

⁶⁹ Sec. 741(f) amended by sec. 4(a) of P.L. 89-751.

⁷⁰ These subsections, formerly (f) and (g) were redesignated by subsec. 4(b) (2) of P.L. 89-290.

(i) ⁷¹ Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

42 U.S.C. 294b

AUTHORIZATION OF APPROPRIATIONS

Sec. 742. (a) ⁷² There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out this part (other than section 744) \$5,100,000 for the fiscal year ending June 30, 1964, \$10,200,000 for the fiscal year ending June 30, 1965, \$15,400,000 for the fiscal year ending June 30, 1966, and \$25,000,000 each for the fiscal year ending June 30, 1967, and the two succeeding fiscal years. In addition to the sums authorized to be appropriated by the preceding sentence, there are authorized to be appropriated \$500,000 for the fiscal year ending June 30, 1967, \$1,000,000 for the fiscal year ending June 30, 1968, and \$1,500,000 for the fiscal year ending June 30, 1969, which sums shall be available for carrying out this part (other than section 744) solely with respect to students of veterinary medicine. There are further authorized to be appropriated to the Secretary such sums for the fiscal year ending June 30, 1970, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1969, to continue or complete their education. Sums appropriated under this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 744(d), and (2) for making Federal capital contributions into loan funds at schools which have established loan funds under this part.

(b) (1) ⁷³ The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions, and for loans pursuant to section 744.

(2) ⁷³ If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such

⁷¹ This subsection, formerly (h), was redesignated by subsec. 4(b)(2) of P.L. 89-290.

⁷² Sec. 742(a) amended by sec. 3(e) of P.L. 89-709, and further amended by sec. 5(b)(1) of P.L. 89-751.

⁷³ Secs. 742(b)(1) and (2) amended by secs. 5(b)(2) and (3), respectively, of P.L. 89-751.

schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallocated in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(3)⁷⁴ Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 744) which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this part.

(4)⁷⁴ Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

DISTRIBUTION OF ASSETS FROM LOAN FUNDS

42 U.S.C. 294c

SEC. 743.⁷⁵ (a)⁷⁶ After June 30, 1972, and not later than September 30, 1972, there shall be a capital distribution of the balance of the loan fund established under a agreement pursuant to section 740(b) by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1972, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 740(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 740(b)(2)(B).

(2) The remainder of such balance shall be paid to the school.

(b)⁷⁶ After September 30, 1972, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1972, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 744(d)) as was determined for the Secretary under subsection (a).

⁷⁴ Sec. 742(b) amended by redesignating paragraph (3) as paragraph (4) and inserting a new paragraph (3), by sec. 5(b)(4) of P.L. 89-751.

⁷⁵ Sec. 743 amended by sec. 4(d) of P.L. 89-290 by striking out "1969" wherever it appeared therein and inserting in lieu thereof "1972."

⁷⁶ Subsecs. (a) and (b) of sec. 743 amended by subsecs. (2) (A) and (B), and (3), respectively, of sec. 5(c) of P.L. 89-751.

LOANS TO SCHOOLS; REVOLVING FUND

Loans to Schools

42 U.S.C. 293a
42 U.S.C. 294

SEC. 744.⁷⁷ (a) (1) During the fiscal years ending June 30, 1967, and June 30, 1968, the Secretary may make loans, from the revolving fund established by subsection (d), to any public or other nonprofit school referred to in section 740(a) which is located in a State and is accredited as provided in section 721(b) (1) (B), to provide all or part of the capital needed by any such school for making loans to students under this section (other than capital needed to finance the institutional contributions required by section 740(b) (2) (B)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 741. The requirement in section 740(b) (2) (B) with respect to institutional contributions to student loan funds shall not apply to loans made to schools under this section.

77 Stat. 170
42 U.S.C. 294

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 740, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

Payments to Schools To Cover Certain Costs Incurred in Making Student Loans From Borrowed Funds

(b) If a school borrows any sums under this section, the Secretary shall agree to pay to the school (1) an

⁷⁷ Sec. 744 amended by :

(a) Sec. 5(a) of P.L. 89-751.

(b) Sec. 5(d) (1) of P.L. 89-751; sec. 744(b) is to " * * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 744 of the Public Health Service Act as in effect prior to the enactment of this Act.

(c) Sec. 5(d) (2) of P.L. 89-751, to authorize the Secretary of Health, Education, and Welfare, " * * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 740(b) (2) (A) of the Public Health Service Act) to a student loan fund of such institution, made under title VII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 744 of such Act as amended by this Act."

amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the collection expenses authorized by section 740(b) (3) to be paid out of a student loan fund with respect to such sums, and (4) the amount of principal which is canceled pursuant to section 741 (d) or (f) with respect to student loans made from such funds. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this subsection.

79 Stat. 1057
42 U.S.C. 294a

Limitation on Loans From Revolving Fund

(c) The total of the loans made in any fiscal year under this section may not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between \$35,000,000 and the amount of Federal funds (other than loans under this section) deposited in student loan funds under this part for that year.

Revolving Fund

(d) (1) There is hereby created within the Treasury a health professions education fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847-849) for wholly owned Government Corporations.

59 Stat. 598;
61 Stat. 584
77 Stat. 172;
42 U.S.C. 294b

(2) The fund shall consist of appropriations paid into the fund pursuant to section 742(a), appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund.

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this section.

78 Stat. 800
12 U.S.C. 1717
Ante, p. 164

From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) In addition to the sums authorized to be appropriated by section 742(a), there are authorized to be appropriated to the fund established by this subsection \$10,000,000 for the fiscal year ending June 30, 1967.

42 U.S.C. 294e

ADMINISTRATIVE PROVISIONS

SEC. 745. The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.

PART D—CENTERS FOR RESEARCH ON MENTAL RETARDATION AND RELATED ASPECTS OF HUMAN DEVELOPMENT ⁷⁸

42 U.S.C. 295

AUTHORIZATION OF APPROPRIATIONS

SEC. 761. There are authorized to be appropriated \$6,000,000 for the fiscal year ending June 30, 1964, \$8,000,000 for the fiscal year ending June 30, 1965, and \$6,000,000 each for the fiscal year ending June 30, 1966, and the fiscal year ending June 30, 1967, for project grants to assist in meeting the costs of construction of facilities for research, or research and related purposes, relating to human development, whether biological, medical, social, or behavioral, which may assist in finding the causes, and means of prevention, of mental retardation, or in finding means of ameliorating the effects of mental retardation. Sums so appropriated shall remain available until expended for payments with respect to projects for which applications have been filed under this part before July 1, 1967, and approved by the Surgeon General thereunder before July 1, 1968.

⁷⁸ Pt. D added by sec. 101 of P.L. 88-164.

SEC. 762. (a) Applications for grants under this part with respect to any facility may be approved by the Surgeon General only if—

(1) the applicant is a public or nonprofit institution which the Surgeon General determines is competent to engage in the type of research for which the facility is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the research, or research and related purposes, for which it was constructed;

(B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when the construction is completed, for effective use of the facility for the research, or research and related purposes, for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the center will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in the clause (D) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) In acting on applications for grants, the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research and related purposes in the field of mental retardation and related aspects of human development, and such other factors as he, after consultation with the national advisory council or councils concerned with the field or fields of research involved, may by regulation prescribe in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge pertaining to mental retardation and related aspects of human development.

AMOUNT OF GRANTS; PAYMENTS

42 U.S.C. 295b

SEC. 763. (a) The total of the grants with respect to any project for the construction of a facility under this part may not exceed 75 per centum of the necessary cost of construction of the center as determined by the Surgeon General.

(b) Payments of grants under this part shall be made in advance or by way of reimbursement, in such installments consistent with construction progress, and on such conditions as the Surgeon General may determine.

(c) No grant may be made after January 1, 1964, under any provision of this Act other than this part, for any of the four fiscal years in the period beginning July 1, 1963, and ending June 30, 1967, for construction of any facility described in this part, unless the Surgeon General determines that funds are not available under this part to make a grant for the construction of such facility.

42 U.S.C. 295c

RECAPTURE OF PAYMENTS

SEC. 764. If, within twenty years after completion of any construction for which funds have been paid under this part—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

42 U.S.C. 295d

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 765. Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related purposes conducted by, and the personnel or administration of, any institution.

42 U.S.C. 295e

DEFINITIONS

SEC. 766. As used in this part—

(1) the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(2) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

PART E—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF MEDICINE, DENTISTRY, OSTEOPATHY, OPTOMETRY, AND PODIATRY ⁷⁹

AUTHORIZATION OF APPROPRIATIONS

SEC. 770. There are authorized to be appropriated \$20,000,000 for the fiscal year ending June 30, 1966, \$40,000,000 for the fiscal year ending June 30, 1967, \$60,000,000 for the fiscal year ending June 30, 1968, and \$80,000,000 for the fiscal year ending June 30, 1969, for grants under this part to assist schools of medicine, dentistry, osteopathy, optometry, and podiatry to improve the quality of their educational programs.

BASIC IMPROVEMENT GRANTS

SEC. 771. (a) Subject to the provisions of subsection (b), the Surgeon General may make basic improvement grants as follows:

(1) For the fiscal year ending June 30, 1966, each school of medicine, dentistry, osteopathy, optometry, or podiatry whose application for a basic improvement grant for such year has been approved by the Surgeon General shall be paid the sum of \$12,500 plus the product obtained by multiplying \$250 by the number of full-time students in such school.

(2) For each fiscal year in the period beginning July 1, 1966, and ending June 30, 1969, each such school whose application has been approved for such a grant for such year shall be paid the sum of \$25,000 plus the product obtained by multiplying \$500 by the number of full-time students in such school.

(b) The Surgeon General shall not make a grant under this section to any school unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the highest first-year enrollment of such students in such school for any of the five school years during the period July 1, 1960, through July 1, 1965, by at least 2½ per centum of such highest first-year enrollment, or by five students, whichever is greater. The requirements of this subsection shall be in addition to the requirements

Enrollment increase requirement

⁷⁹ Pt. E added by sec. 2(a) of P.L. 89-290.

42 U.S.C. 293a

of section 721(c)(2)(D) of this Act, where applicable. The Surgeon General is authorized to waive (in whole or in part) the provisions of this subsection if he determines, after consultation with the National Advisory Council on Medical, Dental, and Optometric, and Podiatric Education, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training for such students.

(c) For purposes of this part and part F, regulations of the Surgeon General shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, as the case may be, on the basis of estimates, or on the basis of the number of students enrolled in a school, or in a particular year-class in a school, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determinations when a school or a year-class was not in existence in an earlier year at a school.

Full-time
students

(d) For purposes of this part and part F, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, doctor of optometry or an equivalent degree, or doctor of podiatry or an equivalent degree.

SPECIAL IMPROVEMENT GRANTS

SEC. 772. (a) From the sums appropriated under section 770 for any fiscal year and not required for making grants under section 771, the Surgeon General may make an additional grant for such year to any school of medicine, dentistry, osteopathy, optometry, or podiatry which has an approved application therefor and for which an application has been approved under section 771, if he determines that the requirements of subsection (b) are satisfied in the case of such applicant.

(b) No special improvement grant shall be made under this section unless such grant is recommended by the National Advisory Council on Medical, Dental, Optometric, and Podiatric Education and the Surgeon General determines that such grant will be utilized by the recipient school (1) to contribute toward the maintenance of, or to provide for, accreditation, or (2) to contribute toward the maintenance of, or to provide for, specialized functions which the school serves.

Limitation

(c) No grant to any school under this section may exceed \$100,000 for the fiscal year ending June 30, 1966; \$200,000 for the fiscal year ending June 30, 1967; \$300,000

for the fiscal year ending June 30, 1968; or \$400,000 for the fiscal year ending June 30, 1969.

APPLICATIONS FOR GRANTS

SEC. 773. (a) The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for basic or special grants under section 771 or 772 for any fiscal year must be filed.

(b) To be eligible for a grant under this part, the applicant must (1) be a public or other nonprofit school of medicine, dentistry, osteopathy, optometry, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (2) shall be deemed to be satisfied if, (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Surgeon General makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Surgeon General that there is reasonable ground to expect that, with the aid of a grant or grants under this part, having regard for the purposes of the grant sought, such school will meet such accreditation standards within a reasonable time.

(c) The Surgeon General shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Medical, Dental, Optometric, and Podiatric Education (established by section 774).

(d) A grant under this part may be made only if the application therefor—

(1) is approved by the Surgeon General upon his determination that the applicant meets the eligibility conditions set forth in subsection (b) of this section;

(2) contains or is supported by assurances satisfactory to the Surgeon General that the applicant will expend in carrying out its functions as a school of medicine, dentistry, osteopathy, optometry, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources

which are at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(3) contains such additional information as the Surgeon General may require to make the determination required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

(4) provides for such fiscal-control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

(e) In considering applications for grants under section 772, the Surgeon General shall take into consideration the relative financial need of the applicant for such a grant and the relative effectiveness of the applicant's plan in carrying out the purposes set forth in clauses (1) or (2) of subsection (b) of section 772 and in contributing to an equitable geographical distribution of schools offering high-quality training of physicians, dentists, optometrists, and podiatrists.

NATIONAL ADVISORY COUNCIL ON MEDICAL, DENTAL, OPTOMETRIC, AND PODIATRIC EDUCATION

Membership

SEC. 774. (a) There is hereby established in the Public Health Service a National Advisory Council on Medical, Dental, Optometric, and Podiatric Education consisting of the Surgeon General, who shall be Chairman, and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare, and such appointments may be made for specified staggered terms. The appointed members of the Council shall be selected from among leading authorities in the fields of medical, dental, optometric, and podiatric education, respectively, except that not less than three of such members shall be selected from the general public.

(b) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part and part F, and in the review of applications under this part.

(c) The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part or part F, for such periods in addition to conference periods, as he may determine.

(d) Appointed members of the Council, while attending conferences or meetings of the Council or while other-

Compensation ;
travel expenses

wise serving at the request of the Surgeon General, shall be entitled to receive compensation at rates to be fixed by the Secretary but not exceeding \$100 per day, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, is authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

60 Stat. 808 ;
75 Stat. 339,
340

PART F—SCHOLARSHIP GRANTS TO SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, OPTOMETRY, PODIATRY, OR PHARMACY⁸⁰

SCHOLARSHIP GRANTS

SEC. 780. (a) The Surgeon General shall make grants as provided in this part to each public or other nonprofit school of medicine, osteopathy, dentistry, optometry, podiatry, or pharmacy, which is accredited as provided in section 721(b) (1) (B) or section 773(b) (2), for scholarships to be awarded annually by such school to students thereof.

Post, p. 1058.
Ante, p. 1053

(b) The amount of the grant under subsection (a) to each such school shall be equal to \$2,000 multiplied (1) for the fiscal year ending June 30, 1966, by one-tenth of the number of full-time first-year students of such school; (2) for the fiscal year ending June 30, 1967, by one-tenth of the number of full-time first-year students and second-year students of such school; (3) for the fiscal year ending June 30, 1968, by one-tenth of the number of full-time first-year students, second-year students, and third-year students of such school; and (4) for the fiscal year ending June 30, 1969, by one-tenth of the number of full-time students of such school. For the fiscal year ending June 30, 1970, and for each of the two succeeding fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending prior to July 1, 1969.

(c) (1) Scholarships may be awarded by schools from grants under subsection (a)—

Recipients,
eligibility

(A) only to individuals who have been accepted by them for enrollment as full-time first-year students, in the case of awards from such grants for the fiscal year ending June 30, 1966;

(B) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time second-year students, in the case of awards from such grants for the fiscal year ending June 30, 1967;

⁸⁰ Pt. F added by sec. 2(a) of P.L. 89-290.

(C) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time second-year or third-year students, in the case of awards from such grants for the fiscal year ending June 30, 1968;

(D) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time students, in the case of awards from such grants for the fiscal year ending June 30, 1969; and

(E) only to individuals enrolled and in good standing as full-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1969, in the case of awards from such grants for the fiscal year ending June 30, 1970, or the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) for any school year shall be awarded only to students from low-income families who, without such financial assistance could not pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed \$2,500 for any year, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Grants under subsection (a) shall be made in accordance with regulations prescribed by the Surgeon General after consultation with the National Advisory Council on Medical, Dental, Optometric, and Podiatric Education.

(e) Grants under subsection (a) may be paid in advance or by way of reimbursement, and at such intervals as the Surgeon General may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made.

PART G—TRAINING IN THE ALLIED HEALTH PROFESSIONS ⁸¹

GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR ALLIED HEALTH PROFESSIONS PERSONNEL

Authorization of Appropriations

80 Stat. 1222

SEC. 791. (a) (1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions, or replacement or rehabilitation of existing facilities for such centers, \$3,000,000 for the fiscal year ending June 30, 1967; \$9,000,000 for the fiscal year ending June 30,

⁸¹ Pt. G added by sec. 2 of P.L. 89-751.

1968; and \$13,500,000 for the fiscal year ending June 30, 1969.

(2) Sums appropriated pursuant to paragraph (1) for a fiscal year shall remain available for grants under this section until the close of the next fiscal year.

Approval of Applications for Construction Grants

(b) (1) No application for a grant under this section may be approved unless it is submitted to the Surgeon General prior to July 1, 1968. The Surgeon General may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applications for grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) the applicant is a public or nonprofit private training center for allied health professions;

(B) the application contains or is supported by reasonable assurances that (i) for not less than ten years after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (iv) in the case of an application for a grant for construction to expand the training capacity of a training center for allied health professions, for the first full school year after the completion of the construction and for each of the nine years thereafter, the enrollment of full-time students at such center will exceed the highest enrollment of such students at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest enrollment, and the requirements of this clause (iv) shall be in addition to the requirements of section 792(b)(2), where applicable;

(C) (i) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new training center for allied health professions, or construction which will expand the training capacity of an existing center, or (ii) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction

which will replace or rehabilitate facilities of an existing training center for allied health professions which are so obsolete as to require the center to curtail substantially either its enrollment or the quality of the training provided;

(D) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(E) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph (E), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

49 Stat. 1011;
78 Stat. 238

63 Stat. 108

(3) Notwithstanding paragraph (2), in the case of an affiliated hospital, an application which is approved by the training center for allied health professions with which the hospital is affiliated and which otherwise complies with the requirements of this section, may be filed by any public or other nonprofit agency qualified to file an application under section 605.

78 Stat. 453
42 U.S.C. 291e

42 U.S.C. 291o

(4) In the case of any application, whether filed by a training center or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this section to assist in the construction of a facility which is a hospital or part of a hospital, as defined in section 625, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such training center for the project for teaching purposes or in order to expand its training capacities or in order to prevent curtailment of enrollment or quality of training, as the case may be, shall be regarded as the project with respect to which payments may be made under this section.

(5) In considering applications for grants, the Surgeon General shall take into account—

(A) the extent to which the project for which the grant is sought will aid in increasing the number of training centers for allied health professions providing training in three or more of the curriculums which are specified in or pursuant to paragraph (1) (A) of section 795 and are related to each other to the extent prescribed in regulations;

(B) (i) in the case of a project for a new training center for allied health professions or for expansion of the facilities of an existing center, the relative effectiveness of the proposed facilities in expanding the capacity for the training of students in the allied health professions involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of allied health professions personnel of the kinds to be trained by such center, and available resources in various areas of the Nation for training such personnel); or

(ii) in the case of a project for replacement or rehabilitation of existing facilities of a training center for allied health professions, the relative need for such replacement or rehabilitation to prevent curtailment of the center's enrollment or deterioration of the quality of the training provided by the center, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the allied health professions involved (giving consideration to the factors mentioned above in subparagraph (i)); and

(C) in the case of an applicant in a State which has in existence a State or local area agency involved in planning for facilities for the training of allied health professions personnel, or which participates in a regional or other interstate agency involved in planning for such facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

Amount of Construction Grant; Payments

(c) (1) The amount of any grant for a construction project under this section shall be such amount as the Surgeon General determines to be appropriate; except that (A) in the case of a grant for a project for a new training center for allied health professions, and in the case of a grant for a project for new facilities for an existing center where such facilities are of particular importance in providing a major expansion of the training capacity of such center, as determined in accordance with regulations, such amount may not exceed $66\frac{2}{3}$ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) Upon approval of any application for a grant under this section, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under paragraph (1); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(3) In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (A) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by the grant under this section, and (B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

Recapture of Payments

(d) If, within ten years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private training center for allied health professions, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship,
the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

GRANTS TO IMPROVE THE QUALITY OF TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS

Authorization of Appropriations

SEC. 792. (a) There are authorized to be appropriated \$9,000,000 for the fiscal year ending June 30, 1967;

\$13,000,000 for the fiscal year ending June 30, 1968; and \$17,000,000 for the fiscal year ending June 30, 1969; for grants under this section to assist training centers for allied health professions to develop new or improved curriculums for training allied health professions personnel and otherwise improve the quality of their educational programs.

Basic Improvement Grants

(b) (1) Subject to the provisions of paragraph (2), the Surgeon General may, for each fiscal year in the period beginning July 1, 1966, and ending June 30, 1969, make to each training center for allied health professions whose application for a basic improvement grant has been approved by him a grant equal to the product obtained by multiplying \$5,000 by the number of curriculums specified in or pursuant to paragraph (1) (A) of section 795 in which such center provides training during such year, plus the product obtained by multiplying \$500 by the number of full-time students in such center receiving training in such curriculums.

(2) The Surgeon General shall not make a grant under this subsection to any center unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the enrollment of full-time students at such center will exceed the highest enrollment of such students in such center for any of the five school years during the period July 1, 1961, through July 1, 1966, by at least $2\frac{1}{2}$ per centum of such highest enrollment, or by three students whichever is greater. The requirements of this paragraph shall be in addition to the requirements of section 791(b) (2) (B) (iv) of this Act, where applicable. The Surgeon General is authorized to waive (in whole or in part) the provisions of this paragraph if he determines that the required increase in enrollment of full-time students in a center cannot, because of limitations of physical facilities available to the center for training, be accomplished without lowering the quality of training for such students.

Special Improvement Grants

(c) (1) From the sums appropriated under subsection (a) for any fiscal year and not required for making grants under subsection (b), the Surgeon General may make an additional grant for such year to any training center for allied health professions which has an approved application therefor and for which an application has been approved under subsection (b), if he determines that the requirements of paragraph (2) are satisfied in the case of such applicant.

(2) No special improvement grant shall be made under this section unless (A) the Surgeon General determines that such grant will be utilized by the recipient training center to contribute toward provision, maintenance, or improvement of specialized function which the center serves, and (B) such center provides or will, with the aid of grants under this part, within a reasonable time provide training in not less than three of the curriculums which are specified in or pursuant to paragraph (1) (A) of section 795 and are related to each other to the extent prescribed in regulations.

(3) No grant to any center under this subsection may exceed \$100,000 for any fiscal year.

Application for Grants

(d) (1) The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for basic or special improvement grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) it contains or is supported by assurances satisfactory to the Surgeon General that the applicant is a public or nonprofit private training center for allied health professions and will expend in carrying out its functions as such a center, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(B) it contains such additional information as the Surgeon General may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section; and

(C) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(3) In considering applications for grants under subsection (c), the Surgeon General shall take into consideration the relative financial need of the applicant for such a grant and the relative effectiveness of the applicant's plan in carrying out the purposes of such grants, and in contributing to an equitable geographical distribution of

training centers offering high-quality training of allied health professions personnel.

TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 793. (a) There are authorized to be appropriated \$1,500,000 for the fiscal year ending June 30, 1967; \$2,500,000 for the fiscal year ending June 30, 1968; and \$3,500,000 for the fiscal year ending June 30, 1969; to cover the cost of traineeships for the training of allied health professions personnel to teach health services technicians or in any of the allied health professions, to serve in any of such professions in administrative or supervisory capacities, or to serve in allied health professions specialties determined by the Surgeon General to require advanced training.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or nonprofit private training centers for allied health professions.

(c) Payments to centers under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

DEVELOPMENT OF NEW METHODS

SEC. 794. There are authorized to be appropriated \$750,000 for the fiscal year ending June 30, 1967; \$2,250,000 for the fiscal year ending June 30, 1968; and \$3,000,000 for the fiscal year ending June 30, 1969; for grants to public or nonprofit private training centers for allied health professions for projects to develop, demonstrate, or evaluate curriculums for the training of new types of health technologists.

DEFINITIONS

SEC. 795. For purposes of this part—

(1) The term "training center for allied health professions" means a junior college, college, or university—

(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or an

equivalent degree, (ii) ⁸² of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Surgeon General,

(B) which provides training for not less than a total of twenty persons in such curriculums,

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital,

(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Surgeon General that reasonable progress is being made toward accreditation by such junior college, and

(E) in the case of an applicant for a grant under section 793, which, if the college or university does not include a school of medicine, a school of osteopathy, school of optometry, or school of dentistry, as defined in paragraph (4) of section 724, as may be appropriate in the light of the training for which the grant is to be made, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a school,

except that an applicant for a grant for a construction project under section 791 which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Surgeon General finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit, or, if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) The term "full-time student" means a student pursuing a full-time course of study, in one of the curriculum specified in or pursuant to paragraph (1) (A) of this section, leading to a baccalaureate or associate degree or to the equivalent of either, or to a higher degree, in a training center for allied health professions; regu-

77 Stat. 169
42 U.S.C. 293d

⁸² Sec. 795(1) (A) (ii) amended by sec. 12(e) of P.L. 90-174.

lations of the Surgeon General shall include provisions relating to determination of the number of students enrolled at a training center on the basis of estimates, or on the basis of the number of students enrolled in a training center in an earlier year, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determinations when a training center was not in existence in an earlier year.

(3) The term "nonprofit" as applied to any training center for allied health professions means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(5) The term "affiliated hospital" means a hospital, as defined in section 625, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, one or more training centers for allied health professions.

78 Stat. 460
42 U.S.C. 2910

RECORDS AND AUDIT

SEC. 796. (a) Each recipient of a grant under this part shall keep such records as the Surgeon General may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this part which are pertinent to any such grant.

TITLE VIII—NURSE TRAINING ⁸³

PART A—GRANTS FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

SEC. 801.⁸⁴ (a) There are authorized to be appropriated—

(1) for grants to assist in the construction of new facilities for collegiate schools of nursing, or replacement or rehabilitation of existing facilities for such schools, \$5,000,000 for the fiscal year ending June 30, 1966, and \$10,000,000 for each of the next three fiscal years;

(2) for grants to assist in the construction of new facilities for associate degree or diploma schools of nursing, or replacement or rehabilitation of existing facilities for such schools, \$10,000,000 for the fiscal year ending June 30, 1966, and \$15,000,000 for each of the next three fiscal years.

There are also authorized to be appropriated for each of such fiscal years ending after June 30, 1966, for grants specified in clause (1) or (2) of the preceding sentence, the amount by which the total of the sums authorized to be appropriated under such clause for previous years exceeds the aggregate of the appropriations thereunder for such years.

(b) Sums appropriated pursuant to clause (1) or (2) of subsection (a) for a fiscal year shall remain available for grants specified in such clause until the close of the next fiscal year.

Notwithstanding any other provision of this title, whenever the Surgeon General determines that any part of any amount appropriated, for any fiscal year, to carry out the purposes of either paragraph (1) or paragraph (2) of subsection (a) will not likely be utilized for such purposes during such year, he shall transfer such part to the amounts which are appropriated to carry out the purposes of the other such paragraph, if he has reason to believe that such part can be used for such purposes.

⁸³ Title VIII added by sec. 2 of P.L. 88-581.

⁸⁴ Sec. 801 amended by sec. 8(a) of P.L. 89-751.

APPROVAL OF APPLICATIONS FOR CONSTRUCTION GRANTS

SEC. 802. (a) No application for a grant for a construction project under this part may be approved unless it is submitted to the Surgeon General prior to July 1, 1968.

(b) A grant for a construction project under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant is a public or nonprofit private school of nursing providing an accredited program of nursing education;

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for a grant for construction to expand the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater;

(3) (A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of an existing school of nursing which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than

those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

Before approving or disapproving an application for a construction project under this part, the Surgeon General shall secure the advice of the National Advisory Council on Nurse Training established by section 841 (hereinafter in this part referred to as the "Council").

(c) In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for training such nurses); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State or local area agency involved with planning for nurse training facilities, or which participates in a regional or other interstate agency involved with planning for nurse training facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

AMOUNT OF CONSTRUCTION GRANT; PAYMENTS

SEC. 803. (a) The amount of any grant for a construction project under this part shall be such amount as the Surgeon General determines to be appropriate after ob-

taining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed 66 $\frac{2}{3}$ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Upon approval of any application for a grant for a construction project under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such instalments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any such grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

RECAPTURE OF PAYMENTS

SEC. 804. If, within twenty years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(b) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(c) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agree-

ment of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

IMPROVEMENT IN NURSE TRAINING

SEC. 805. (a) There are authorized to be appropriated for grants to public and nonprofit private diploma, collegiate and associate degree schools of nursing to assist them in meeting the additional costs of projects of limited duration which will strengthen, improve, or expand their programs to teach and train nurses, \$2,000,000 for the fiscal year ending June 30, 1965, \$3,000,000 for the fiscal year ending June 30, 1966, \$4,000,000 for the fiscal year ending June 30, 1967, and each of the next two fiscal years, and such sums for each of the next four fiscal years as may be necessary to complete projects for which a grant was made under this section from funds appropriated for the fiscal year ending June 3, 1969, or any preceding year.

(b) In determining whether to approve applications for grants described in subsection (a), the order in which to approve such applications, and the amount of the grants, the Surgeon General shall give consideration to the extent to which such projects will contribute to general improvement in the teaching and training of nurses of the kind involved, the extent to which they will aid in attaining a wider geographical distribution throughout the United States of high quality schools of the type involved, and the relative need in the area in which the school is situated and surrounding areas for nurses of the type trained in such school.

(c) No grant may be made under subsection (a) of this section for any project for any period after grants have been made with respect to such project for five fiscal years.

PARTIAL REIMBURSEMENT TO DIPLOMA SCHOOLS FOR COSTS ATTRIBUTABLE TO THIS TITLE

SEC. 806. (a) In order to prevent further attrition and promote the development of public and nonprofit private diploma schools of nursing, there are hereby authorized to be appropriated \$4,000,000 for the fiscal year ending June 30, 1965, \$7,000,000 for the fiscal year ending June 30, 1966, and \$10,000,000 for the fiscal year ending June 30, 1967, and each of the two succeeding fiscal years, to defray a portion of the cost of training students of nursing whose enrollment in such schools can be reasonably attributed to the provisions of this title.

(b) From the amounts appropriated pursuant to subsection (a), the Surgeon General shall pay to each public or nonprofit private diploma school of nursing for

each fiscal year in the five-year period beginning on July 1, 1964, and ending June 30, 1969, an amount equal to the product of \$250 and the sum of the number of federally-sponsored students in such school during such year and the number by which the full-time enrollment in such school during such year exceeds the average of the full-time enrollments in such school during the fiscal years ending June 30, 1962, June 30, 1963, and June 30, 1964, except that no such diploma school of nursing shall for any fiscal year receive an amount in excess of the product of \$100 and the full-time enrollment in such school during such year. If the amounts appropriated pursuant to subsection (a) for any fiscal year are inadequate to make the grants provided for in the preceding sentence, the amount of the grant to each such diploma school of nursing shall be reduced so that it shall bear the same ratio to such amounts appropriated for such year as the amount such school would be entitled to under the preceding sentence bears to the aggregate amount which all diploma schools of nursing would be entitled to for such year under such sentence.

(c) For the purposes of this section—

(1)⁸⁵ the term “federally-sponsored student” means any student enrolled in a public or nonprofit private diploma school of nursing on a full-time basis who has received for that year a loan of \$100 or more from a loan fund established pursuant to section 822 or from sums paid by the Secretary from the revolving fund created by section 827(d), or a nursing educational opportunity grant payment made pursuant to section 862; and

(2) the full-time enrollment in any school and the number of federally-sponsored students in any school shall be determined as of February 15 of each fiscal year.

PART B—ASSISTANCE TO NURSING STUDENTS

TRAINEESHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

SEC. 821. (a) There are authorized to be appropriated \$8,000,000 for the fiscal year ending June 30, 1965, \$9,000,000 for the fiscal year ending June 30, 1966, \$10,000,000 for the fiscal year ending June 30, 1967, \$11,000,000 for the fiscal year ending June 30, 1968, and \$12,000,000 for the fiscal year ending June 30, 1969, to cover the cost of traineeships for the training of professional nurses to teach in the various fields of nurse training (including practical nurse training), to serve in administrative or supervisory capacities, or to serve in other professional

⁸⁵ Sec. 806(c)(1) amended by sec. 12(a) of P.L. 90-174 with Nov. 3, 1966, as the effective date of the amendment (sec. 12(f) of P.L. 90-174).

nursing specialties determined by the Surgeon General to require advanced training.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or non-profit private institutions providing the training.

(c) Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

LOAN AGREEMENTS

42 U.S.C. 297a

SEC. 822. (a) The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part with any public or nonprofit private school of nursing which is located in a State.

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund of (A)⁸⁶ the Federal capital contributions paid under this part to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, and (D) any other earnings of the fund;

(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school

⁸⁶ Sec. 822(b) (2) (A) amended by:

(a) Sec. 6(e) (1) of P.L. 89-751 to “* * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 827 of the Public Health Service Act as in effect prior to the enactment of this Act.”

(b) Sec. 6(e) (2) of P.L. 89-751 to authorize the Secretary of Health, Education, and Welfare, “* * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under sec. 822(b) (2) (A) of the Public Health Service Act) to a student loan fund of such institution, made under title VIII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 827 of such Act as amended by this Act.”

before July 1, 1969, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

LOAN PROVISIONS

SEC 823. (a) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this part may not exceed \$1,000 in the case of any student. In the granting of such loans, a school shall give preference to persons who enter as first-year students after enactment of this title.

(b) Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary of Health, Education, and Welfare may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who

(A) is in need of the amount of the loan to pursue a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of nursing, except that (A) interest shall not accrue on any such loan, and periodic installments need not be paid, during any period during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, and (B) any such period shall not be included in determining such ten-year period;

(3) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit

private institution or agency, at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5)⁸⁷ such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum or the going Federal rate at the time the loan is made, whichever is the greater; and for purposes of this paragraph, the term "going Federal rate" means the rate of interest which the Secretary of the Treasury specifies during June of each year for purposes of loans made during the fiscal year beginning on the next July 1, determined by estimating the average yield to maturity, on the basis of daily closing market quotations or prices during the preceding May on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May, and by rounding off such estimated average annual yield to the next higher multiple of one-eighth of 1 per centum: *Provided*, That notwithstanding the foregoing provisions of this paragraph, the rate of interest determined in accordance with such provisions for the first loan obtained by a student from a loan fund established under this part shall also apply to any subsequent loan to such student from such fund during his course of study;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

(c) Where all or any part of a loan, or interest, is canceled under this section, the Secretary of Health, Education, and Welfare shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Any loan for any year by a school from a student loan fund established pursuant to an agreement under

⁸⁷ Par. (5) of sec. 823(b) amended by sec. 4(g)(2) of P.L. 89-290.

this part shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the School that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) An agreement under this part with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

Authorization of Appropriations for Loans

42 U.S.C. 297c

SEC. 824.⁸⁸ There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for Federal capital contributions to student loan funds pursuant to section 822(b)(2)(A) \$3,100,000 for the fiscal year ending June 30, 1965, \$8,900,000 for the fiscal year ending June 30, 1966, \$16,800,000 for the fiscal year ending June 30, 1967, \$25,300,000 for the fiscal year ending June 30, 1968, \$30,900,000 for the fiscal year ending June 30, 1969, and such sums for the fiscal year ending June 30, 1970, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1969, to continue or complete their education. Sums appropriated pursuant to this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 827(d), and (2) in accordance with agreements under this part, for Federal capital contributions to schools with which such agreements have been made, to be used, together with deposits in such funds pursuant to section 822(b)(2)(B), for establishment and maintenance of student loan funds.

Allotments and Payments of Federal Capital Contributions

SEC. 825. (a)⁸⁹ Sums appropriated pursuant to section 824 for any fiscal year shall be allotted (for payment as Federal capital contributions or as loans to schools under section 827) by the Secretary of Health, Education, and Welfare among the States as follows: (1) He shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students who graduated from secondary schools in such State during the preceding fiscal year bears to the total number of

42 U.S.C. 297d

⁸⁸ Sec. 824 amended by sec. 6(b) of P.L. 89-751.

⁸⁹ Sec. 825(a)(1) amended by sec. 6(c)(1) of P.L. 89-751.

students who graduated from secondary schools in all of the States during such year; and (2) he shall also allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students who will be enrolled full time in public or nonprofit private schools of nursing in such State bears to the total number of students who will be enrolled full time in all such schools of nursing in all of the States. The sum of such two amounts for each State shall be its allotment. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this part. Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 827) which are in excess of the amount appropriated pursuant to section 824 for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this part.

(b)(1)⁹⁰ The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 827, from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Sec-

⁹⁰ Sec. 825(b)(1) amended by sec. 6(c)(2) of P.L. 89-751.

retary may reallocate the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary of Health, Education, and Welfare on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) The Federal capital contributions to a loan fund of a school under this part shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

Distribution of Assets From Loan Funds

42 U.S.C. 297e

SEC. 826. (a)⁹¹ After June 30, 1972, and not later than September 30, 1972, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 822(b) by each school as follows:

(1)⁹¹ The Secretary of Health, Education, and Welfare shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1972, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 822(b) (2) (A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 822(b) (2) (B).

(2) The remainder of such balance shall be paid to the school.

(b)⁹¹ After September 30, 1972, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1972, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 827(d)) as was determined for the Secretary under subsection (a).

⁹¹ Secs. 826(a), 826(a)(1), and 826(b) amended by secs. 6(d)(1), 6(d)(2), and 6(d)(3), respectively, of P.L. 89-751.

Loans to Schools

42 U.S.C. 297a

42 U.S.C. 297b

SEC. 827.⁹² (a) (1) During the fiscal years ending June 30, 1967, and June 30, 1968, the Secretary may make loans, from the revolving fund established by subsection (d), to any public or nonprofit private school of nursing which is located in a State, to provide all or part of the capital needed by any such school for making loans to students under this section (other than capital needed to make the institutional contributions required of schools by section 822(b) (2) (B)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 823. The requirement in section 822(b) (2) (B) with respect to institutional contributions by schools to student loan funds shall not apply to loans made to schools under this section.

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 822, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

Payments to Schools To Cover Certain Costs Incurred in Making Student Loans From Borrowed Funds

(b) If a school of nursing borrows any sums under this section, the Secretary shall agree to pay to the school (1) an amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by

⁹² Sec. 827 amended by :

(a) Sec. 6(a) of P.L. 89-751.

(b) Sec. 6(e) (1) of P.L. 89-751, to " * * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 827 of the Public Health Service Act as in effect prior to the enactment of this Act."

(c) Sec. 6(e) (2) of P.L. 89-751, to authorize the Secretary of Health, Education, and Welfare, " * * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 822(b) (2) (A) of the Public Health Service Act) to a student loan fund of such institution, made under title VIII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 827 of such Act as amended by this Act."

the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the amount of collection expenses authorized by section 822(b) (3) to be paid out of a student loan fund with respect to such sums and (4) the amount of principal which is canceled pursuant to section 823(b) (3) or (4) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal-year limitation such sums as may be necessary to carry out the purposes of this subsection.

Limitation on Loans

(c) The total of the loans made in any fiscal year under this section shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between \$35,000,000 and the amount of Federal capital contributions paid under this title for that year.

Revolving Fund

(d) (1) There is hereby created within the Treasury a nurse training fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847-849) for wholly owned Government corporations.

(2) The fund shall consist of appropriations paid into the fund pursuant to section 824, appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund.

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this section. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under

this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) In addition to the sums authorized to be appropriated by section 824, there are authorized to be appropriated to the fund established by this subsection \$2,000,000 for the fiscal year ending June 30, 1967.

42 U.S.C. 297g

ADMINISTRATIVE PROVISIONS

SEC. 828. The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.

PART C—GENERAL

42 U.S.C. 298

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING; REVIEW COMMITTEE

SEC. 841. (a) (1) There is hereby established a National Advisory Council on Nurse Training, consisting of the Surgeon General, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and sixteen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services.

(2) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this title, and in the review of applications for construction projects under part A and of applications under section 805.

(b) The Secretary of Health, Education, and Welfare shall, prior to July 1, 1967, and without regard to the civil service laws, appoint a committee, consisting of members of the public, of various groups particularly interested in or expert in matters relating to education

of various types of nurses, for the purpose of reviewing the programs authorized by this title and making recommendations with respect to continuation, extension, and modification of any of such programs. A report of the findings and recommendations of such committee shall be submitted to the Secretary not later than November 1, 1967, after which date such committee shall cease to exist. The Secretary shall submit such report, together with his comments and recommendations thereon, to the Congress on or before January 1, 1968.

(c)⁹³ Appointed members of the Council or the review committee who are not regular full-time employees of the United States shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate to be fixed by the Secretary but not exceeding \$100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 842. Nothing contained in this title shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

DEFINITIONS

42 U.S.C. 298b

SEC. 843. For purposes of this title—

(a) the term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, or the Virgin Islands.

(b) the term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(c) the term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(d) the term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or

⁹³ Sec. 841 (c) amended by sec. 3 (b) of P.L. 89-751.

exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(e) the term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed.

(f)⁹⁴ The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or a program accredited for the purpose of this Act by the Commissioner of Education, except that a program which is not, at the time of the application under this title by the school which provides or will provide such program, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program will meet the accreditation standards of such body or bodies (1) in the case of an applicant under part A for a grant for a project for construction of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (A) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (B) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (2) in the case of a school applying for a grant under section 805 for a project to strengthen, improve, or expand its programs to teach and train nurses, prior to or upon completion of the project with respect to which the application is filed; and (3) in the case of a school seeking an agreement under part B for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under part B; except that the provisions of this clause (3) shall not apply for purposes of section 825.

⁹⁴ Sec. 843(f) amended by sec. 5(b) of P.L. 89-290.

(g) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(i) The terms "construction" and "cost of construction" include (1) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (2) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered.

PART D—OPPORTUNITY GRANTS FOR NURSING EDUCATION ⁹⁵

STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

SEC. 861. (a) It is the purpose of this part to provide, through schools of nursing (as defined in section 843(b)), nursing educational opportunity grants to assist in making available the benefits of nursing education to qualified high school graduates of exceptional financial need, who for lack of financial means of their own or of their families would be unable to obtain such benefits without such aid.

(b) There are hereby authorized to be appropriated \$3,000,000 for the fiscal year ending June 30, 1967, \$5,000,000 for the fiscal year ending June 30, 1968, and \$7,000,000 for the fiscal year ending June 30, 1969, to enable the Secretary to make payments to schools of nursing that have agreements with him entered into under section 867, for use by such schools for payments to undergraduate students for the nursing educational opportunity grants awarded to them under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

⁹⁵ Pt. D added by sec. 8(b) of P.L. 89-751.

AMOUNT OF NURSING EDUCATIONAL OPPORTUNITY GRANT—
ANNUAL DETERMINATION

SEC. 862. From the funds received by it for such purpose under this part, a school of nursing which awards a nursing educational opportunity grant to a student under this part shall, for the duration of the grant, pay to that student for each academic year during which he is in need of grant aid to pursue a course of study at such school, an amount determined by the institution for such student with respect to that year, which amount shall not exceed—

(1) the lesser of \$800 or one-half of the sum of the amount of student financial aid (including assistance under title IV of the Higher Education Act of 1965, but excluding assistance under work-study programs) provided such student by such school and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Secretary, or

(2) in the case of a student who during the preceding academic year at a school of nursing received grades placing him in the upper half of his class, the amount determined under paragraph (1) plus \$200.

If the amount of the payment, determined pursuant to this section, for an academic year is less than \$200 for any student, no payment shall be made under this part to such student for such year. The Secretary shall, subject to the foregoing limitation, prescribe for the guidance of participating institutions basic criteria or schedules (or both) for the determination of the amount of any such nursing educational opportunity grant, taking into account the objective of limiting grant aid under this part to students of exceptional financial need and such other factors, including the number of dependents in the family, as the Secretary may deem relevant.

DURATION OF NURSING EDUCATIONAL OPPORTUNITY GRANT

SEC. 863. The duration of a nursing educational opportunity grant awarded under this part shall be the period required for completion by the recipient of his undergraduate course of study in the nursing school from which he received such grant, except that such period shall not exceed four academic years less any such period with respect to which the recipient has previously received payments under this part pursuant to a prior nursing educational opportunity grant (whether made by the same or another school of nursing). An educational opportunity grant awarded under this part shall entitle the recipient to payments only if he (1) is maintaining satisfactory progress in the course of nurse training which he is pursuing, according to the regularly pre-

79 Stat. 1232
20 U.S.C. 1061-
1085

scribed standards and practices of the school of nursing from which he received the grant, and (2) is devoting essentially full time to such course of study, during the academic year, in attendance at such school. Failure to be in attendance at the school of nursing during vacation periods or periods of military service, or during other periods during which the Secretary determines in accordance with regulations that there is good cause for his nonattendance (during which periods he shall receive no payments) shall not be deemed contrary to clause (2) of the preceding sentence.

SELECTION OF RECIPIENTS OF NURSING EDUCATIONAL OPPORTUNITY GRANTS

SEC. 864. (a) An individual shall be eligible for the award of a nursing educational opportunity grant under this part at any school of nursing which has made an agreement with the Secretary pursuant to section 867 (which school is hereinafter in this part referred to as an "eligible school"), if the individual makes application at the time and in the manner prescribed by such school.

(b) From among those eligible for nursing educational opportunity grants from a school of nursing for each fiscal year, such school shall, in accordance with the provisions of its agreement with the Secretary under section 867 and within the amounts allocated to the school for that purpose for such year under section 866, select individuals who are to be awarded such grants and determine, pursuant to section 862, the amounts to be paid to them. A school of nursing shall not award a nursing educational opportunity grant to an individual unless it determines that—

(1) he has been accepted for enrollment as a full-time student at such school or, in the case of a student already attending such school, is in good standing and in full-time attendance there as an undergraduate student;

(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study;

(3) he is of exceptional financial need; and

(4) he would not, but for a nursing educational opportunity grant, be financially able to pursue a course of study at such school.

ALLOTMENT OF NURSING EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

SEC. 865. (a) From the sums appropriated pursuant to the first sentence of section 861(b) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in schools

of nursing in such State bears to the total number of persons enrolled on a full-time basis in schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him.

(b) If the total of the sums determined by the Secretary to be required under section 866 for any fiscal year for eligible schools of nursing in a State is less than the amount of the allotment to that State under paragraph (1) for that year, the Secretary may reallocate the remaining amount from time to time, on such date or dates as he may fix, to other States in such manner as he determines will best assist in achieving the purposes of this part.

ALLOCATION OF ALLOTTED FUNDS TO SCHOOLS OF NURSING

SEC. 866. (a) The Secretary shall from time to time set dates by which eligible schools of nursing in any State must file applications for allocation to such schools of nursing educational opportunity grant funds from the allotment to that State (including any reallocation thereto) for any fiscal year pursuant to section 865(a), to be used for the purposes specified in the first sentence of section 861(b). Such allocations shall be made in accordance with equitable criteria which the Secretary shall establish and which shall be designed to achieve such distribution of such funds among eligible schools of nursing within a State as will most effectively carry out the purposes of this part.

(b) Payment shall be made from allocations under this section to schools of nursing as needed.

AGREEMENTS WITH SCHOOLS OF NURSING—CONDITIONS

SEC. 867. A school of nursing, which desires to obtain funds for nursing education opportunity grants under this part, shall enter into an agreement with the Secretary. Such agreement shall—

(1) provide that funds received by the school under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

(2) provide that in determining whether an individual meets the requirements of section 864(b) (3) the school will (A) consider the source of such individual's income and that of any individual or individuals upon whom the student relies primarily for support, and (B) make an appropriate review of the assets of the student and of such individuals;

(3) provide that the school, in cooperation with other schools of nursing where appropriate, will make vigorous efforts to identify qualified youth of exceptional financial need and to encourage them to continue their education in the field of nursing beyond the secondary school through programs and activities such as—

(A) establishing or strengthening close working relationships with secondary-school principals and guidance counseling personnel with a view toward motivating studies to complete secondary school and pursue post-secondary-school nursing educational opportunities, and

(B) making, to the extent feasible, conditional commitments for nursing educational opportunity grants to qualified secondary school students with special emphasis on students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

(4) provide assurance that the school will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

(5) include provisions designed to make nursing educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the school in need thereof; and

(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part.

CONTRACTS TO ENCOURAGE FULL UTILIZATION OF NURSING EDUCATIONAL TALENT

SEC. 868. (a) To assist in achieving the purposes of this part the Secretary is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to enter into contracts, not to exceed \$100,000 per year, with State and local educational agencies and other public or nonprofit organizations and institutions for the purpose of—

(1) identifying qualified youths of exceptional financial need and encouraging them to complete secondary school and undertake post-secondary educational training in the field of nursing, or

(2) publicizing existing forms of financial aid for nursing students, including aid furnished under this part.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

DEFINITION OF ACADEMIC YEAR

SEC. 869. As used in this part, the term "academic year" means an academic year or its equivalent as defined in regulations of the Secretary.

TITLE IX—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN THE FIELDS OF HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES*

PURPOSES

SEC. 900. The purposes of this title are—

(a) through grants, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education) and for related demonstrations of patient care in the fields of heart disease, cancer, stroke, and related diseases;

(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the diagnosis and treatment of these diseases; and

(c) by these means, to improve generally the health manpower and facilities available to the Nation, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 901. (a) There are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1966, \$90,000,000 for the fiscal year ending June 30, 1967, and \$200,000,000 for the fiscal year ending June 30, 1968, for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and demonstration activities for carrying out the purposes of this title. Sums appropriated under this section for any fiscal year shall remain available for making such grants until the end of the fiscal year following the fiscal year for which the appropriation is made.

* Title IX added by sec. 2 of P.L. 89-239.

(b) A grant under this title shall be for part or all of the cost of the planning or other activities with respect to which the application is made, except that any such grant with respect to construction of, or provision of built-in (as determined in accordance with regulations) equipment for, any facility may not exceed 90 per centum of the cost of such construction or equipment.

(c) Funds appropriated pursuant to this title shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent it is, as determined in accordance with regulations, incident to those research, training, or demonstration activities which are encompassed by the purposes of this title. No patient shall be furnished hospital, medical, or other care at any facility incident to research, training, or demonstration activities carried out with funds appropriated pursuant to this title, unless he has been referred to such facility by a practicing physician.

DEFINITIONS

SEC. 902. For the purposes of this title—

(a) the term “regional medical program” means a cooperative arrangement among a group of public or nonprofit private institutions or agencies engaged in research, training, diagnosis, and treatment relating to heart disease, cancer, or stroke, and, at the option of the applicant, related disease or diseases; but only if such group—

(1) is situated within a geographic area, composed of any part or parts of any one or more States, which the Surgeon General determines, in accordance with regulations, to be appropriate for carrying out the purposes of this title;

(2) consists of one or more medical centers, one or more clinical research centers, and one or more hospitals; and

(3) has in effect cooperative arrangements among its component units which the Surgeon General finds will be adequate for effectively carrying out the purposes of this title.

(b) the term “medical center” means a medical school or other medical institution involved in post-graduate medical training and one or more hospitals affiliated therewith for teaching, research, and demonstration purposes.

(c) the term “clinical research center” means an institution (or part of an institution) the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high-quality diagnostic and treatment services for inpatients and outpatients.

(d) the term “hospital” means a hospital as defined in section 625(c) or other health facility in

which local capability for diagnosis and treatment is supported and augmented by the program established under this title.

(e) the term "nonprofit" as applied to any institution or agency means an institution or agency which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) the term "construction" includes alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

GRANTS FOR PLANNING

SEC. 903. (a) The Surgeon General, upon the recommendation of the National Advisory Council on Regional Medical Programs established by section 905 (hereafter in this title referred to as the "Council"), is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions to assist them in planning the development of regional medical programs.

(b) Grants under this section may be made only upon application therefor approved by the Surgeon General. Any such application may be approved only if it contains or is supported by—

(1) reasonable assurances that Federal funds paid pursuant to any such grant will be used only for the purposes for which paid and in accordance with the applicable provisions of this title and the regulations thereunder;

(2) reasonable assurances that the applicant will provide for such fiscal control and fund accounting procedures as are required by the Surgeon General to assure proper disbursement of and accounting for such Federal funds;

(3) reasonable assurances that the applicant will make such reports, in such form and containing such information as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports; and

(4) a satisfactory showing that the applicant has designated an advisory group, to advise the applicant (and the institutions and agencies participating in the resulting regional medical program) in formulating and carrying out the plan for the establishment and operation of such regional medical pro-

gram, which advisory group includes practicing physicians, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary health agencies, and representatives of other organizations, institutions, and agencies concerned with activities of the kind to be carried on under the program and members of the public familiar with the need for the services provided under the program.

GRANTS FOR ESTABLISHMENT AND OPERATION OF REGIONAL MEDICAL PROGRAMS

SEC. 904. (a) The Surgeon General, upon the recommendation of the Council, is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions to assist in establishment and operation of regional medical programs, including construction and equipment of facilities in connection therewith.

(b) Grants under this section may be made only upon application therefor approved by the Surgeon General. Any such application may be approved only if it is recommended by the advisory group described in section 903(b)(4) and contains or is supported by reasonable assurances that—

(1) Federal funds paid pursuant to any such grant (A) will be used only for the purposes for which paid and in accordance with the applicable provisions of this title and the regulations thereunder, and (B) will not supplant funds that are otherwise available for establishment or operation of the regional medical program with respect to which the grant is made;

(2) the applicant will provide for such fiscal control and fund accounting procedures as are required by the Surgeon General to assure proper disbursement of and accounting for such Federal funds;

(3) the applicant will make such reports, in such form and containing such information as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports; and

(4) any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the

Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

SEC. 905. (a) The Surgeon General, with the approval of the Secretary, may appoint, without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Surgeon General, who shall be the chairman, and twelve members, not otherwise in the regular full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study, diagnosis, or treatment of heart disease, one shall be outstanding in the study, diagnosis, or treatment of cancer, and one shall be outstanding in the study, diagnosis, or treatment of stroke.

(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Surgeon General at the time of appointment, four at the end of the first year, four at the end of the second year, and four at the end of the third year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(d) The Council shall advise and assist the Surgeon General in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this title. The Council shall consider all applications for grants under this title and shall make recommendations to the Surgeon General with respect to approval of applications for and the amounts of grants under this title.

REGULATIONS

SEC. 906. The Surgeon General, after consultation with the Council shall prescribe general regulations covering the terms and conditions for approving applications for grants under this title and the coordination of programs assisted under this title with programs for training, research, and demonstrations relating to the same diseases assisted or authorized under titles of this Act or other Acts of Congress.

INFORMATION ON SPECIAL TREATMENT AND TRAINING
CENTERS

SEC. 907. The Surgeon General shall establish, and maintain on a current basis, a list or lists of facilities in the United States equipped and staffed to provide the most advanced methods and techniques in the diagnosis and treatment of heart disease, cancer, or stroke, together with such related information, including the availability of advanced specialty training in such facilities, as he deems useful, and shall make such list or lists and related information readily available to licensed practitioners and other persons requiring such information. To the end of making such list or lists and other information most useful, the Surgeon General shall from time to time consult with interested national professional organizations.

REPORT

SEC. 908. On or before June 30, 1967, the Surgeon General, after consultation with the Council, shall submit to the Secretary for transmission to the President and then to the Congress, a report of the activities under this title together with (1) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to this title, (2) an appraisal of the activities assisted under this title in the light of their effectiveness in carrying out the purposes of this title, and (3) recommendations with respect to extension or modification of this title in the light thereof.

RECORDS AND AUDIT

SEC. 909. (a) Each recipient of a grant under this title shall keep such records as the Surgeon General may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this title which are pertinent to any such grant.



CLEAN AIR ACT,
AS AMENDED

CLEAN AIR ACT ¹

[PUBLIC LAW 88-206, APPROVED DECEMBER 17, 1963'
AS AMENDED]

AN ACT To improve, strengthen, and accelerate programs for the prevention and abatement of air pollution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That the Act of July 14, 1955, as amended (42 U.S.C. 1857-1857g), is hereby amended to read as follows:

TITLE I—AIR POLLUTION PREVENTION AND CONTROL

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

(3) that the prevention and control of air pollution at its source is the primary responsibility of States and local governments; and

(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

(b) The purposes of this title are—

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

¹ The Air Quality Act of 1967 (P.L. 90-148) amended the Clean Air Act.

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution control programs.

COOPERATIVE ACTIVITIES AND UNIFORM LAWS

SEC. 102. (a) The Secretary shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

(b) The Secretary shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

(c) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress. It is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

RESEARCH, INVESTIGATIONS, TRAINING, AND OTHER ACTIVITIES

SEC. 103. (a) The Secretary shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies re-

lating to the causes, effects, extent, prevention, and control of air pollution;

(2) encourage, cooperate with, and render technical services and provide financial assistance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the pollution is located;

(4) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research.

(b) In carrying out the provisions of the preceding subsection the Secretary is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(5) provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications;

(6) establish and maintain research fellowships, in the Department of Health, Education, and Welfare and at public or nonprofit private educational institutions or research organizations;

(7) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and

organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof; and

(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution.

(c) In carrying out the provisions of subsection (a) of this section the Secretary shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known air pollution agents (or combinations of agents).

(d) The Secretary is authorized to construct such facilities and staff and equip them as he determines to be necessary to carry out his functions under this Act.

(e) If, in the judgement of the Secretary, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, he may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Secretary. If the Secretary finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under section 108(a), he shall send such findings, together with recommendations concerning the measures which he finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (d), (e), and (f) of section 108.

RESEARCH RELATING TO FUELS AND VEHICLES

SEC. 104. (a) The Secretary shall give special emphasis to research and development into new and improved methods, having industrywide application, for the prevention and control of air pollution resulting from

the combustion of fuels. In furtherance of such research and development he shall—

(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for control of combustion byproducts of fuels, for removal of potential pollutants from fuels, and for control of emissions from evaporation of fuels;

(2) provide for Federal grants to public or non-profit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of (A) part of the cost of acquiring, constructing, or otherwise securing for research and development purposes, new or improved devices or methods having industrywide application of preventing or controlling discharges into the air of various types of pollutants; and (B) carrying out the other provisions of this section, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5): *Provided*, That research or demonstration contracts awarded pursuant to this subsection (including contracts for construction) may be made in accordance with, and subject to the limitations provided with respect to research contracts of the military departments in, section 2353 of title 10, United States Code, except that the determination, approval, and certification required thereby shall be made by the Secretary: *Provided further*, That no grant may be made under this paragraph in excess of \$1,500,000;

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Limitation

(3) determine, by laboratory and pilot plant testing, the results of air pollution research and studies in order to develop new or improved processes and plant designs to the point where they can be demonstrated on a large and practical scale;

(4) construct, operate, and maintain, or assist in meeting the cost of the construction, operation, and maintenance of new or improved demonstration plants or processes which have promise of accomplishing the purposes of this Act;

(5) study new or improved methods for the recovery and marketing of commercially valuable by-products resulting from the removal of pollutants.

(b) In carrying out the provisions of this section, the Secretary may—

(1) conduct and accelerate research and development of low-cost instrumentation techniques to facilitate determination of quantity and quality of air pollutant emissions, including, but not limited to, automotive emissions;

(2) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

(3) establish and operate necessary facilities and test sites at which to carry on the research, testing, development, and programing necessary to effectuate the purposes of this section;

(4) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, and facilities, and other property or rights by purchase, license, lease, or donation; and

(5) cause on-site inspections to be made of promising domestic and foreign projects, and cooperate and participate in their development in instances in which the purposes of the Act will be served thereby.

Appropriation

(c) For the purposes of this section there are authorized to be appropriated for the fiscal year ending June 30, 1968, \$35,000,000, and for the fiscal year ending June 30, 1969, \$90,000,000. Amounts appropriated pursuant to this subsection shall remain available until expended.

GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS

SEC. 105. (a)(1) The Secretary is authorized to make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and grants to such agencies in an amount up to one-half of the cost of maintaining, programs for the prevention and control of air pollution and programs for the implementation of air quality standards authorized by this Act: *Provided*, That the Secretary is authorized to make grants to air pollution control agencies within the meaning of sections 302(b)(2) and 302(b)(4) in an amount up to three-fourths of the cost of planning, developing, establishing, or improving and up to three-fifths of the cost of maintaining, regional air quality control programs. As used in this subsection the term "regional air quality control program" means a program for the prevention and control of air pollution or the implementation of air quality standards programs as authorized by this Act, in an area that includes the areas of two or more municipalities whether in the same or different States.

"Regional air quality control program"

(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 302(b)(2) and 302(b)(4), the Secretary shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

(3) Before approving any planning grant under this subsection to any air pollution control agency within the meaning of sections 302(b)(2) and 302(b)(4), the Secretary shall receive assurances that such agency has the capability of developing a comprehensive air quality

plan for the air quality control region, which plan shall include (when appropriate) a recommended system of alerts to avert and reduce the risk of situations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Secretary shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Secretary may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Secretary shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Secretary is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Secretary has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

(c) Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Secretary shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

Limitation

INTERSTATE AIR QUALITY AGENCIES OR COMMISSIONS

SEC. 106. (a) For the purpose of expediting the establishment of air quality standards in an interstate air quality control region designated pursuant to section 107(a)(2), the Secretary is authorized to pay, for two years, up to 100 per centum of the air quality planning

program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors standards of air quality and plans for implementation thereof and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Secretary is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of such agency.

(b)(1) Whenever the Secretary deems it necessary to expedite the establishment of standards for an interstate air quality control region designated pursuant to section 107(a)(2) he may, after consultation with the Governors of the affected States, designate or establish an air quality planning commission for the purpose of developing recommended regulations setting forth standards of air quality to be applicable to such air quality control region.

(2) Such Commission shall consist of the Secretary or his designee who shall serve as Chairman, and adequate representation of appropriate State, interstate, local and (when appropriate), international, interests in the designated air quality control region.

(3) The Secretary shall, within available funds, provide such staff for such Commission as may be necessary to enable it to carry out its functions effectively, and shall pay the other expenses of the Commission; and may also accept for the use by such Commission, funds, property, or services contributed by the State involved or political subdivisions thereof.

Compensation,
travel expenses

(4) Each appointee from a State, other than an official or employee thereof, or of any political subdivision thereof, shall, while engaged in the work of the Commission, receive compensation at a rate fixed by the Secretary, but not in excess of \$100 per diem, including traveltime, and while away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 3109) for persons in the Government service employed intermittently.

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AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

SEC. 107. (a)(1) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Air Quality Act of 1967, define for the purposes of this Act, atmospheric areas of the Nation on the basis of those conditions, including, but not limited to, climate, meteorology, and topography, which affect the interchange and diffusion of pollutants in the atmosphere.

(2) For the purpose of establishing ambient air quality standards pursuant to section 108, and for adminis-

trative and other purposes, the Secretary, after consultation with appropriate State and local authorities shall, to the extent feasible, within 18 months after the date of enactment of the Air Quality Act of 1967 designate air quality control regions based on jurisdictional boundaries, urban-industrial concentrations, and other factors including atmospheric areas necessary to provide adequate implementation of air quality standards. The Secretary may from time to time thereafter, as he determines necessary to protect the public health and welfare and after consultation with appropriate State and local authorities, revise the designation of such regions and designate additional air quality control regions. The Secretary shall immediately notify the Governor or Governors of the affected State or States of such designation.

(b)(1) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, from time to time, but as soon as practicable, develop and issue to the States such criteria of air quality as in his judgment may be requisite for the protection of the public health and welfare: *Provided*, That any criteria issued prior to enactment of this section shall be reevaluated in accordance with the consultation procedure and other provisions of this section and, if necessary, modified and reissued. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

Publication in
Federal Register

(2) Such criteria shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all indentifiable effects on health and welfare which may be expected from the presence of an air pollution agent, or combination of agents in the ambient air, in varying quantities.

(3) Such criteria shall include those variable factors which of themselves or in combination with other factors may alter the effects on public health and welfare of any subject agent or combination of agents, including, but not limited to, atmospheric conditions, and the types of air pollution agent or agents which, when present in the atmosphere, may interact with such subject agent or agents, to produce an adverse effect on public health and welfare.

(c) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on those recommended pollution control techniques the application of which is necessary to achieve levels of air quality set forth in criteria issued pursuant to subsection (b), including those criteria subject to the proviso in subsection (b)(1), which information shall include technical data relating to the technology and costs of emission control.

Such recommendations shall include such data as are available on the latest available technology and economic feasibility of alternative methods of prevention and control of air contamination including cost-effectiveness analyses. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

(d) The Secretary shall, from time to time, revise and reissue material issued pursuant to subsections (b) and (c) in accordance with procedures established in such subsections.

AIR QUALITY STANDARDS AND ABATEMENT OF AIR POLLUTION

SEC. 108. (a) The pollution of the air in any State or States which endangers the health or welfare of any persons, shall be subject to abatement as provided in this section.

(b) Consistent with the policy declaration of this title, municipal, State, and interstate action to abate air pollution shall be encouraged and shall not be displaced by Federal enforcement action except as otherwise provided by or pursuant to a court order under subsection (c), (h), or (k).

(c)(1) If, after receiving any air quality criteria and recommended control techniques issued pursuant to section 107, the Governor of a State, within ninety days of such receipt, files a letter of intent that such State will within one hundred and eighty days, and from time to time thereafter, adopt, after public hearings, ambient air quality standards applicable to any designated air quality control region or portions thereof within such State and within one hundred and eighty days thereafter, and from time to time as may be necessary, adopts a plan for the implementation, maintenance, and enforcement of such standards of air quality adopted, and if such standards and plan are established in accordance with the letter of intent and if the Secretary determines that such State standards are consistent with the air quality criteria and recommended control techniques issued pursuant to section 107; that the plan is consistent with the purposes of the Act insofar as it assures achieving such standards of air quality within a reasonable time; and that a means of enforcement by State action, including authority comparable to that in subsection (k) of this section, is provided, such State standards and plan shall be the air quality standards applicable to such State. If the Secretary determines that any revised State standards and plan are consistent with the purposes of this Act and this subsection, such standards and plan shall be the air quality standards applicable to such State.

(2) If a State does not (A) file a letter of intent or (B) establish air quality standards in accordance with

paragraph (1) of this subsection with respect to any air quality control region or portion thereof and if the Secretary finds it necessary to achieve the purpose of this Act, or the Governor of any State affected by air quality standards established pursuant to this subsection petitions for a revision in such standards, the Secretary may after reasonable notice and a conference of representatives of appropriate Federal departments and agencies, interstate agencies, States, municipalities, and industries involved, prepare regulations setting forth standards of air quality consistent with the air quality criteria and recommended control techniques issued pursuant to section 107 to be applicable to such air quality control region or portions thereof. If, within six months from the date the Secretary publishes such regulations, the State has not adopted air quality standards found by the Secretary to be consistent with the purposes of this Act, or a petition for public hearing has not been filed under paragraph (3) of this subsection, the Secretary shall promulgate such standards.

(3) If at any time prior to thirty days after standards have been promulgated under paragraph (2) of this subsection, the Governor of any State affected by such standards petitions the Secretary for a hearing, the Secretary shall call a public hearing for the purpose of receiving testimony from State and local pollution control agencies and other interested parties affected by the proposed standards, to be held in or near one or more of the places where the air quality standards will take effect, before a hearing board of five or more persons appointed by the Secretary. Each State which would be affected by such standards shall be given an opportunity to select a member of the hearing board. Each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Secretary shall be given an opportunity to select one member of the hearing board and not less than a majority of the hearing board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. The members of the board who are not officers or employees of the United States, while participating in the hearing conducted by such hearing board or otherwise engaged in the work of such hearing board, shall be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703, title 5, of the United States Code for persons in the Government service employed intermittently. At least thirty days prior to the date of such hearing notice of such hearing shall be published in the Federal Register and given to parties notified of the conference required in paragraph

Hearings; board
members

Compensation,
travel expenses

80 Stat. 499

Publication in
Federal Register

Violations,
jurisdiction

(2) of this subsection. On the basis of the evidence presented at such hearing, the hearing board shall within ninety days unless the Secretary determines a longer period is necessary, but in no event longer than one hundred and eighty days, make findings as to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the hearing board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the hearing board's recommendations. If the hearing board recommends modifications in the standards as published or promulgated by the Secretary, the Secretary shall promulgate revised regulations setting forth standards of air quality in accordance with the hearing board's recommendations which will become effective immediately upon promulgation.

(4) Whenever, on the basis of surveys, studies and reports, the Secretary finds that the ambient air quality of any air quality control region or portion thereof is below the air quality standards established under this subsection, and he finds that such lowered air quality results from the failure of a State to take reasonable action to enforce such standards, the Secretary shall notify the affected State or States, persons contributing to the alleged violation, and other interested parties of the violation of such standards. If such failure does not cease within one hundred and eighty days from the date of the Secretary's notification, the Secretary—

(i) in the case of pollution of air which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(ii) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law, or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

In any suit brought under the provisions of this subsection the court shall receive in evidence a transcript of the proceedings of the hearing provided for in this subsection, together with the recommendations of the hearing board

and the recommendations and standards promulgated by the Secretary, and such additional evidence, including that relating to the alleged violation of the standards, as it deems necessary to complete review of the standards and to determination of all other issues relating to the alleged violation. The court, giving due consideration to the practicability and to the technological and economic feasibility of complying with such standards, shall have jurisdiction to enter such judgment and orders enforcing such judgment as the public interest and the equities of the case may require.

(5) In connection with any hearings under this section no witness or any other person shall be required to divulge trade secrets or secret processes.

(6) Nothing in this subsection shall prevent the application of this section to any case to which subsection (a) of this section would be otherwise applicable.

(d)(1)(A) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to air pollution which is alleged to endanger the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in whose jurisdictional area such municipality is located, and shall call promptly a conference of such agency or agencies and of the air pollution control agencies of the municipalities which may be adversely affected by such pollution, and the air pollution control agency, if any, of each State, or for each area, in which any such municipality is located. Conference

(B) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to alleged air pollution which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate and if a municipality affected by such air pollution, or the municipality in which such pollution originates, has either made or concurred in such request, give formal notification thereof to the State air pollution control agency, to the air pollution control agencies of the municipality where such discharge or discharges originate, and of the municipality or

municipalities alleged to be adversely affected thereby, and to any interstate air pollution control agency, whose jurisdictional area includes any such municipality and shall promptly call a conference of such agency or agencies, unless in the judgment of the Secretary, the effect of such pollution is not of such significance as to warrant exercise of Federal jurisdiction under this section.

(C) The Secretary may, after consultation with State officials of all affected States, also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) is occurring and is endangering the health and welfare of persons in a State other than that in which the discharge or discharges originate. The Secretary shall invite the cooperation of any municipal, State, or interstate air pollution control agencies having jurisdiction in the affected area on any surveys or studies forming the basis of conference action.

Foreign countries,
participation

(D) Whenever the Secretary, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) which endangers the health or welfare of persons in a foreign country is occurring, or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Secretary of Health, Education, and Welfare shall give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in the jurisdictional area of which such municipality is located, and shall call promptly a conference of such agency or agencies. The Secretary shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State air pollution control agency. This subparagraph shall apply only to a foreign country which the Secretary determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this subparagraph.

(2) The agencies called to attend such conference may bring such persons as they desire to the conference. The Secretary shall deliver to such agencies and make available to other interested parties, at least thirty days prior to any such conference, a Federal report with respect to the matters before the conference, including data and conclusions or findings (if any); and shall give at least

thirty days' prior notice of the conference date to any such agency, and to the public by publication on at least three different days in a newspaper or newspapers of general circulation in the area. The chairman of the conference shall give interested parties an opportunity to present their views to the conference with respect to such Federal report, conclusions or findings (if any), and other pertinent information. The Secretary shall provide that a transcript be maintained of the proceedings of the conference and that a copy of such transcript be made available on request of any participant in the conference at the expense of such participant.

Transcript of
proceedings

(3) Following this conference, the Secretary shall prepare and forward to all air pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of air pollution subject to abatement under this Act; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

(e) If the Secretary believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the appropriate State, interstate, or municipal air pollution control agency (or to all such agencies) that the necessary remedial action be taken. The Secretary shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

(f)(1) If, at the conclusion of the period so allowed, such remedial action or other action which in the judgment of the Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a hearing board of five or more persons appointed by the Secretary. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of such hearing board and each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Secretary shall be given an opportunity to select one member of such hearing board, and one member shall be a representative of the appropriate interstate air pollution agency if one exists, and not less than a majority of such hearing board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. At least three weeks' prior notice of such hearing shall be given to the State, interstate, and municipal air pollution control agencies

Hearings; board
members

called to attend such hearing and to the alleged polluter or polluters. All interested parties shall be given a reasonable opportunity to present evidence to such hearing board.

(2) On the basis of evidence presented at such hearing, the hearing board shall make findings as to whether pollution referred to in subsection (a) is occurring and whether effective progress toward abatement thereof is being made. If the hearing board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Secretary concerning the measures, if any, which it finds to be reasonable and suitable to secure abatement of such pollution.

(3) The Secretary shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution; to air pollution control agencies of the State or States and of the municipality or municipalities where such discharge or discharges originate; and to any interstate air pollution control agency whose jurisdictional area includes any such municipality, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution.

(g) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Secretary—

(1) in the case of pollution of air which is endangering the health or welfare of persons (A) in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, or (B) in a foreign country which has participated in a conference called under subparagraph (D) of subsection (d) of this section and in all proceedings under this section resulting from such conference, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(2) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(h) The court shall receive in evidence in any suit brought in a United States court under subsection (g) of this section a transcript of the proceedings before the board and a copy of the board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability of complying with such standards as may be applicable and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

Jurisdiction

(i) Members of any hearing board appointed pursuant to subsection (f) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such board or otherwise engaged on the work of such board, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

Compensation,
travel expenses80 Stat. 499
5 U.S.C. 5703

(j)(1) In connection with any conference called under this section, the Secretary is authorized to require any person whose activities result in the emission of air pollutants causing or contributing to air pollution to file with him, in such form as he may prescribe, a report, based on existing data, furnishing to the Secretary such information as may reasonably be required as to the character, kind, and quantity of pollutants discharged and the use of devices or other means to prevent or reduce the emission of pollutants by the person filing such a report. After a conference has been held with respect to any such pollution the Secretary shall require such reports from the person whose activities result in such pollution only to the extent recommended by such conference. Such report shall be made under oath or otherwise, as the Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. No person shall be required in such report to divulge trade secrets or secret processes and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

62 Stat. 791

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by the Secretary for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of

the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business: *Provided*, That the Secretary may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

(k) Notwithstanding any other provision of this section, the Secretary, upon receipt of evidence that a particular pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and finding that appropriate State or local authorities have not acted to abate such sources, may request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to immediately enjoin any contributor to the alleged pollution to stop the emission of contaminants causing such pollution or to take such other action as may be necessary.

STANDARDS TO ACHIEVE HIGHER LEVEL OF AIR QUALITY

SEC. 109. Nothing in this title shall prevent a State, political subdivision, intermunicipal or interstate agency from adopting standards and plans to implement an air quality program which will achieve a higher level of ambient air quality than approved by the Secretary.

PRESIDENT'S AIR QUALITY ADVISORY BOARD AND ADVISORY COMMITTEES

Membership

SEC. 110. (a)(1) There is hereby established in the Department of Health, Education, and Welfare an Air Quality Advisory Board, composed of the Secretary or his designee, who shall be Chairman, and fifteen members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with air pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of air pollution prevention and control, as well as other individuals who are expert in this field.

Term of office

(2) Each member appointed by the President shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the

expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first taking office pursuant to this subsection shall expire as follows: five at the end of one year after the date of appointment, five at the end of two years after such date, and five at the end of three years after such date, as designated by the President at the time of appointment, and (C) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members shall be eligible for reappointment within one year after the end of his preceding term, unless such term was for less than three years.

(b) The Board shall advise and consult with the Secretary on matters of policy relating to the activities and functions of the Secretary under this Act and make such recommendations as it deems necessary to the President.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board and such other advisory committees as hereinafter authorized shall be provided from the personnel of the Department of Health, Education, and Welfare.

(d) In order to obtain assistance in the development and implementation of the purposes of this Act including air quality criteria, recommended control techniques, standards, research and development, and to encourage the continued efforts on the part of industry to improve air quality and to develop economically feasible methods for the control and abatement of air pollution, the Secretary shall from time to time establish advisory committees. Committee members shall include, but not be limited to, persons who are knowledgeable concerning air quality from the standpoint of health, welfare, economics, or technology.

(e) The members of the Board and other advisory committees appointed pursuant to this Act who are not officers or employees of the United States while attending conferences or meetings of the Board or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

Compensation,
travel expenses

80 Stat. 499

COOPERATION BY FEDERAL AGENCIES TO CONTROL AIR POLLUTION FROM FEDERAL FACILITIES

SEC. 111. (a) It is hereby declared to be the intent of Congress that any Federal department or agency having jurisdiction over any building, installation, or other

property shall, to the extent practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency in preventing and controlling the pollution of the air in any area insofar as the discharge of any matter from or by such building, installation, or other property may cause or contribute to pollution of the air in such area.

(b) In order to control air pollution which may endanger the health or welfare of any persons, the Secretary may establish classes of potential pollution sources for which any Federal department or agency having jurisdiction over any building, installation, or other property shall, before discharging any matter into the air of the United States, obtain a permit from the Secretary for such discharge, such permits to be issued for a specified period of time to be determined by the Secretary and subject to revocation if the Secretary finds pollution is endangering the health and welfare of any persons. In connection with the issuance of such permits, there shall be submitted to the Secretary such plans, specifications, and other information as he deems relevant thereto and under such conditions as he may prescribe. The Secretary shall report each January to the Congress the status of such permits and compliance therewith.

TITLE II—NATIONAL EMISSION STANDARDS ACT

SHORT TITLE

SEC. 201. This title may be cited as the "National Emission Standards Act".

ESTABLISHMENT OF STANDARDS

SEC. 202. (a) The Secretary shall by regulation, giving appropriate consideration to technological feasibility and economic costs, prescribe as soon as practicable standards, applicable to the emission of any kind of substance, from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause or contribute to, or are likely to cause or to contribute to, air pollution which endangers the health or welfare of any persons, and such standards shall apply to such vehicles or engines whether they are designed as complete systems or incorporate other devices to prevent or control such pollution.

(b) Any regulations initially prescribed under this section, and amendments thereto, with respect to any class of new motor vehicles or new motor vehicle engines shall become effective on the effective date specified in the order promulgating such regulations which date shall be determined by the Secretary after consideration of the period reasonably necessary for industry compliance.

Effective date
of regulations

PROHIBITED ACTS

SEC. 203. (a) The following acts and the causing thereof are prohibited—

(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the manufacture for sale, the sale, or the offering for sale, or the introduction or delivery for introduction into commerce, or the importation into the United States for sale or resale, of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this title which are applicable to such vehicle or engine unless it is in conformity with regulations prescribed under this title (except as provided in subsection (b));

(2) for any person to fail or refuse to permit access to or copying of records or to fail to make

reports or provide information, required under section 207; or

(3) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser.

Exemptions

(b)(1) The Secretary may exempt any new motor vehicle or new motor vehicle engine, or class thereof, from subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(2) A new motor vehicle or new motor vehicle engine offered for importation by a manufacturer in violation of subsection (a) shall be refused admission into the United States, but the Secretary of the Treasury and the Secretary of Health, Education, and Welfare may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a motor vehicle or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this title. The Secretary of the Treasury shall, if a motor vehicle or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new motor vehicle or new motor vehicle engine that fails to comply with applicable standards of the Secretary of Health, Education, and Welfare under this title.

(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall not be subject to the provisions of subsection (a).

INJUNCTION PROCEEDINGS

SEC. 204. (a) The district courts of the United States shall have jurisdiction to restrain violations of paragraph (1), (2), or (3) of section 203(a).

(b) Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to

attend a district court in any district may run into any other district.

PENALTIES

SEC. 205. Any person who violates paragraph (1), (2), or (3) of section 203(a) shall be subject to a fine of not more than \$1,000. Such violation with respect to sections 203(a)(1) and 203(a)(3) shall constitute a separate offense with respect to each new motor vehicle or new motor vehicle engine.

CERTIFICATION

SEC. 206. (a) Upon application of the manufacturer, the Secretary shall test, or require to be tested, in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by such manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 202 of this title. If such vehicle or engine conforms to such regulations the Secretary shall issue a certificate of conformity, upon such terms, and for such period not less than one year, as he may prescribe.

(b) Any new motor vehicle or any motor vehicle engine sold by such manufacturer which is in all material respects substantially the same construction as the test vehicle or engine for which a certificate has been issued under subsection (a), shall for the purposes of this Act be deemed to be in conformity with the regulations issued under section 202 of this title.

RECORDS AND REPORTS

SEC. 207. (a) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and regulations thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee at reasonable times to have access to and copy such records.

(b) All information reported or otherwise obtained by the Secretary or his representative pursuant to subsection (a), which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

STATE STANDARDS

SEC. 208. (a) No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b) The Secretary shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this title.

(c) Nothing in this title shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

FEDERAL ASSISTANCE IN DEVELOPING VEHICLE
INSPECTION PROGRAMS

SEC. 209. The Secretary is authorized to make grants to appropriate State air pollution control agencies in an amount up to two-thirds of the cost of developing meaningful uniform motor vehicle emission device inspection and emission testing programs except that (1) no grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program; and (2) no such grant shall be made unless the Secretary of Transportation has certified to the Secretary that such program is consistent with any highway safety program developed pursuant to section 402 of title 23 of the United States Code.

80 Stat. 731

REGISTRATION OF FUEL ADDITIVES

SEC. 210. (a) The Secretary may by regulation designate any fuel or fuels (including fuels used for purposes other than motor vehicles), and after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel may deliver any such fuel for introduction into interstate commerce or to another person who, it can reasonably be expected, will deliver

such fuel for such introduction unless the manufacturer of such fuel has provided the Secretary with the information required under subsection (b)(1) of this section and unless any additive contained in such fuel has been registered with the Secretary in accordance with subsection (b)(2) of this section.

(b) For the purposes of this section the Secretary shall require (1) the manufacturer of such fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of such additive or additives in the fuel; and the purpose in the use of such additive; and (2) the manufacturer of any such additive to notify him as to the chemical composition of such additive or additives as indicated by compliance with clause (1) above, the recommended range of concentration of such additive, if any, the recommended purpose in the use of such additive, and to the extent such information is available or becomes available, the chemical structure of such additive or additives. Upon compliance with clauses (1) and (2), including assurances that any change in the above information will be provided to the Secretary, the Secretary shall register such fuel additive.

(c) All information reported or otherwise obtained by the Secretary or his representative pursuant to subsection (b), which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees of the United States concerned with carrying out this Act or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

62 Stat. 791

(d) Any person who violates subsection (a) shall forfeit and pay to the United States a civil penalty of \$1,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Secretary may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection, and he shall have authority to determine the facts upon all such applications.

Violations;
penalties

(e) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

NATIONAL EMISSIONS STANDARDS STUDY

Report to
Congress

SEC. 211. (a) The Secretary shall submit to the Congress, no later than two years after the effective date of this section, a comprehensive report on the need for and effect of national emission standards for stationary sources. Such report shall include: (A) information regarding identifiable health and welfare effects from single emission sources; (B) examples of specific plants, their location, and the contaminant or contaminants which, due to the amount or nature of emissions from such facilities, constitute a danger to public health or welfare; (C) an up-to-date list of those industries and the contaminant or contaminants which, in his opinion, should be subject to such national standards; (D) the relationship of such national emission standards to ambient air quality, including a comparison of situations wherein several plants emit the same contaminants in an air region with those in which only one such plant exists; (E) an analysis of the cost of applying such standards; and (F) such other information as may be appropriate.

(b) The Secretary shall conduct a full and complete investigation and study of the feasibility and practicability of controlling emissions from jet and piston aircraft engines and of establishing national emission standards with respect thereto, and report to Congress the results of such study and investigation within one year from the date of enactment of the Air Quality Act of 1967, together with his recommendations.

DEFINITIONS FOR TITLE II

SEC. 212. As used in this title—

(1) The term "manufacturer" as used in sections 203, 206, 207, and 208 means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) The term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser.

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

TITLE III—GENERAL

ADMINISTRATION

SEC. 301. (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act. The Secretary may delegate to any officer or employee of the Department of Health, Education, and Welfare such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

(b) Upon the request of an air pollution control agency, personnel of the Public Health Service may be detailed to such agency for the purpose of carrying out the provisions of this Act. The provisions of section 214(d) of the Public Health Service Act shall be applicable with respect to any personnel so detailed to the same extent as if such personnel had been detailed under section 214(b) of that Act.

(c) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Secretary.

DEFINITIONS

SEC. 302. When used in this Act—

(a) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this Act;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

58 Stat. 690
42 U.S.C. 215
60 Stat. 423

(c) The term "interstate air pollution control agency" means—

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) The term "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(g) All language referring to adverse effects on welfare shall include but not be limited to injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to transportation.

OTHER AUTHORITY NOT AFFECTED

SEC. 303. (a) Except as provided in subsection (b) of this section, this Act shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Secretary or any other Federal officer, department, or agency.

(b) No appropriation shall be authorized or made under section 301, 311, or 314 of the Public Health Service Act for any fiscal year after the fiscal year ending June 30, 1964, for any purpose for which appropriations may be made under authority of this Act.

58 Stat. 691;
80 Stat. 1181,
1190
42 U.S.C. 241,
243, 246

RECORDS AND AUDIT

SEC. 304. (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

COMPREHENSIVE ECONOMIC COST STUDIES

SEC. 305. (a) In order to provide the basis for evaluating programs authorized by this Act and the development of new programs and to furnish the Congress with the information necessary for authorization of appropriations by fiscal years beginning after June 30, 1969, the Secretary, in cooperation with State, interstate, and local air pollution control agencies, shall make a detailed estimate of the cost of carrying out the provisions of this Act; a comprehensive study of the cost of program implementation by affected units of government; and a comprehensive study of the economic impact of air quality standards on the Nation's industries, communities, and other contributing sources of pollution, including an analysis of the national requirements for and the cost of controlling emissions to attain such standards of air quality as may be established pursuant to this Act or applicable State law. The Secretary shall submit such detailed estimate and the results of such comprehensive study of cost for the five-year period beginning July 1, 1969, and the results of such other studies, to the Congress not later than January 10, 1969, and shall submit a reevaluation of such estimate and studies annually thereafter.

Report to
Congress

Personnel study

(b) The Secretary shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this Act and other programs for the same purpose as this Act; (2) means of using existing Federal training programs to train such personnel; and (3) the need for additional trained personnel to develop, operate and maintain those pollution control facilities designed and installed to implement air quality standards. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1969.

Report to
President and
Congress

ADDITIONAL REPORTS TO CONGRESS

SEC. 306. Not later than six months after the effective date of this section and not later than January 10 of each calendar year beginning after such date, the Secretary shall report to the Congress on measures taken toward implementing the purpose and intent of this Act including, but not limited to, (1) the progress and problems associated with control of automotive exhaust emissions and the research efforts related thereto; (2) the development of air quality criteria and recommended emission control requirements; (3) the status of enforcement actions taken pursuant to this Act; (4) the status of State ambient air standards setting, including such plans for implementation and enforcement as have been developed; (5) the extent of development and expansion

of air pollution monitoring systems; (6) progress and problems related to development of new and improved control techniques; (7) the development of quantitative and qualitative instrumentation to monitor emissions and air quality; (8) standards set or under consideration pursuant to title II of this Act; (9) the status of State, interstate, and local pollution control programs established pursuant to and assisted by this Act; and (10) the reports and recommendations made by the President's Air Quality Advisory Board.

LABOR STANDARDS

SEC. 307. The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

63 Stat. 108

SEPARABILITY

SEC. 308. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

APPROPRIATIONS

SEC. 309. There are hereby authorized to be appropriated to carry out this Act, other than sections 103(d) and 104, \$74,000,000 for the fiscal year ending June 30, 1968, \$95,000,000 for the fiscal year ending June 30, 1969, and \$134,300,000 for the fiscal year ending June 30, 1970.

SHORT TITLE

SEC. 310. This Act may be cited as the "Clean Air Act".

The following is a list of the names of the persons who have been elected to the office of the President of the United States, and the names of the persons who have been elected to the office of the Vice President of the United States, in the year 1800.

The following is a list of the names of the persons who have been elected to the office of the President of the United States, and the names of the persons who have been elected to the office of the Vice President of the United States, in the year 1800.

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SOLID WASTE DISPOSAL ACT

SOLID WASTE DISPOSAL ACT

[PUBLIC LAW 89-272—89TH CONGRESS, S. 306, APPROVED
OCTOBER 20, 1965]

AN ACT To authorize a research and development program with respect to solid-waste disposal, and for other purposes.

* * * * *

TITLE II—SOLID WASTE DISPOSAL ¹

SHORT TITLE

SEC. 201. This title (hereinafter referred to as "this Act") may be cited as the "Solid Waste Disposal Act".

Solid Waste
Disposal Act

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds—

(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass of material discarded by the purchaser of such products;

(2) that the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

(3) that the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

(4) that inefficient and improper methods of disposal of solid wastes result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, and increase in rodent and insect vectors of disease,

¹ Title I of P.L. 89-272 amended the Clean Air Act (P.L. 88-206).

have an adverse effect on land values, create public nuisances, otherwise interfere with community life and development;

(5) that the failure or inability to salvage and reuse such materials economically results in the unnecessary waste and depletion of our natural resources; and

(6) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

(b) The purposes of this Act therefore are—

(1) to initiate and accelerate a national research and development program for new and improved methods of proper and economic solid-waste disposal, including studies directed toward the conservation of natural resources by reducing the amount of waste and unsalvageable materials and by recovery and utilization of potential resources in solid wastes; and

(2) to provide technical and financial assistance to State and local governments and interstate agencies in the planning, development, and conduct of solid-waste disposal programs.

DEFINITIONS

SEC. 203. When used in this Act:

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare; except that such term means the Secretary of the Interior with respect to problems of solid waste resulting from the extraction, processing, or utilization of minerals or fossil fuels where the generation, production, or reuse of such waste is or may be controlled within the extraction, processing, or utilization facility or facilities and where such control is a feature of the technology or economy of the operation of such facility or facilities.

(2) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) The term "interstate agency" means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

(4) The term "solid waste" means garbage, refuse, and other discarded solid materials, including solid-waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

(5) The term "solid-waste disposal" means the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(6) The term "construction", with respect to any project of construction under this Act, means (A) the erection or building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the project to completion.

RESEARCH, DEMONSTRATIONS, TRAINING, AND OTHER ACTIVITIES

SEC. 204. (a) The Secretary shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the operation and financing of solid-waste disposal programs, the development and application of new and improved methods of solid-waste disposal (including devices and facilities therefor), and the reduction of the amount of such waste and unsalvageable waste materials.

(b) In carrying out the provisions of the preceding subsection, the Secretary is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of, and

other information pertaining to, such research and other activities, including appropriate recommendations in connection therewith;

(2) cooperate with public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and the conduct of such research and other activities; and

(3) make grants-in-aid to public or private agencies and institutions and to individuals for research, training projects, surveys, and demonstrations (including construction of facilities), and provide for the conduct of research, training, surveys, and demonstrations by contract with public or private agencies and institutions and with individuals; and such contracts for research or demonstrations or both (including contracts for construction) may be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 10, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Secretary.

70A Stat. 134

(c) Any grant, agreement, or contract made or entered into under this section shall contain provisions effective to insure that all information, uses, processes, patents and other developments resulting from any activity undertaken pursuant to such grant, agreement, or contract will be made readily available on fair and equitable terms to industries utilizing methods of solid-waste disposal and industries engaging in furnishing devices, facilities, equipment, and supplies to be used in connection with solid-waste disposal. In carrying out the provisions of this section, the Secretary and each department, agency, and officer of the Federal Government having functions or duties under this Act shall make use of and adhere to the Statement of Government Patent Policy which was promulgated by the President in his memorandum of October 10, 1963. (3 CFR, 1963 Supp., p. 238.)

Limitation

(d) Notwithstanding any other provision of this Act, the United States shall not make any grant to pay more than two-thirds of the cost of construction of any facility under this Act.

INTERSTATE AND INTERLOCAL COOPERATION

SEC. 205. The Secretary shall encourage cooperative activities by the States and local governments in connection with solid-waste disposal programs; encourage where practicable, interstate, interlocal, and regional planning for, and the conduct of, interstate, interlocal, and regional solid-waste disposal programs; and encourage the enactment of improved and, so far as practicable, uniform State and local laws governing solid-waste disposal.

GRANTS FOR STATE AND INTERSTATE PLANNING

SEC. 206. (a) The Secretary may from time to time, upon such terms and conditions consistent with this section as he finds appropriate to carry out the purposes of this Act, make grants to State and interstate agencies of not to exceed 50 per centum of the cost of making surveys of solid-waste disposal practices and problems within the jurisdictional areas of such States or agencies, and of developing solid-waste disposal plans for such areas.

(b) In order to be eligible for a grant under this section the State, or the interstate agency, must submit an application therefor which—

Application

(1) designates or establishes a single State agency (which may be an interdepartmental agency) or, in the case of an interstate agency, such interstate agency, as the sole agency for carrying out the purposes of this section;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of planning essential to statewide planning (or in the case of an interstate agency jurisdictionwide planning) for proper and effective solid-waste disposal consistent with the protection of the public health, including such factors as population growth, urban and metropolitan development, land use planning, water pollution control, air pollution control, and the feasibility of regional disposal programs;

(3) sets forth its plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this section;

(4) provides for submission of a final report of the activities of the State or interstate agency in carrying out the purposes of this section, and for the submission of such other reports, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this section and for keeping such records and affording such access thereto as he may find necessary to assure the correctness and verification of such reports; and

(5) provides for such fiscal-control and fund-accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State or interstate agency under this section.

(c) The Secretary shall make a grant under this section only if he finds that there is satisfactory assurance that the planning of solid-waste disposal will be coordinated, so far as practicable, with other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 701 of the Housing Act of 1954.

49 Stat. 1011;
78 Stat. 238

64 Stat. 1267
63 Stat. 108

SEC. 207. No grant for a project of construction under this Act shall be made unless the Secretary finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

OTHER AUTHORITY NOT AFFECTED

SEC. 208. This Act shall not be construed as superseding or limiting the authorities and responsibilities, under any other provisions of law, of the Secretary of Health, Education, and Welfare, the Secretary of the Interior, or any other Federal officer, department, or agency.

PAYMENTS

SEC. 209. Payments of grants under this Act may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary may determine.

APPROPRIATIONS

SEC. 210. (a) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare, to carry out this Act, not to exceed \$7,000,000 for the fiscal year ending June 30, 1966, not to exceed \$14,000,000 for the fiscal year ending June 30, 1967, not to exceed \$19,200,000 for the fiscal year ending June 30, 1968, and not to exceed \$20,000,000 for the fiscal year ending June 30, 1969.

(b) There is hereby authorized to be appropriated to the Secretary of the Interior, to carry out this Act, not to exceed \$3,000,000 for the fiscal year ending June 30, 1966, not to exceed \$6,000,000 for the fiscal year ending June 30, 1967, not to exceed \$10,800,000 for the fiscal year ending June 30, 1968, and not to exceed \$12,500,000 for the fiscal year ending June 30, 1969.

MISCELLANEOUS LAWS RELATING TO MENTAL
HEALTH AND MENTAL RETARDATION

THE HISTORY OF THE
CITY OF BOSTON

FROM 1630 TO 1880

BY JAMES H. BROWN, LL.D.,

OF THE UNIVERSITY OF CHICAGO

AND

OF THE BOSTON SOCIETY OF THE CITY OF BOSTON

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MISCELLANEOUS LAWS RELATING TO MENTAL HEALTH AND MENTAL RETARDATION

[PUBLIC LAW 88-164, APPROVED OCTOBER 31, 1963,
AS AMENDED ¹]

77 Stat. 282

AN ACT To provide assistance in combating mental retardation through grants for construction of research centers and grants for facilities for the mentally retarded and assistance in improving mental health through grants for construction of community mental health centers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963".

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963

TITLE I ²—FACILITIES FOR THE MENTALLY RETARDED ³

SHORT TITLE

SEC. 100. This title may be cited as the "Mental Retardation Facilities Construction Act".

PART A—GRANTS FOR CONSTRUCTION OF CENTERS FOR RESEARCH ON MENTAL RETARDATION AND RELATED ASPECTS OF HUMAN DEVELOPMENT

* * * * *

PART B—PROJECT GRANTS FOR CONSTRUCTION OF UNIVERSITY-AFFILIATED FACILITIES FOR THE MENTALLY RETARDED

AUTHORIZATION OF APPROPRIATIONS

SEC. 121.⁴ (a) For the purpose of assisting in the construction (and the planning for the construction) of clinical facilities providing, as nearly as practicable, a full range of inpatient and outpatient services for the mentally retarded (which, for purposes of this part, includes other neurological handicapping conditions found by the

42 U.S.C. 2661

¹ Provisions of this Act which amended the P.H.S. Act were incorporated as pt. D in title VII, of the P.H.S. Act.

² Sec. 2(a) of P.L. 89-105 amended titles I and IV by changing the words "Title II" wherever they appeared in such titles to read "part A of title II."

³ The heading of title I amended by sec. 4 of P.L. 90-170.

⁴ Sec. 121 amended by secs. 2 (a), (b), and (d) (1) of P.L. 90-170.

Secretary to be sufficiently related to mental retardation to warrant inclusion in this part) and facilities which will aid in demonstrating provision of specialized services for the diagnosis and treatment, education, training, or care of the mentally retarded or in the clinical training of physicians and other specialized personnel needed for research, diagnosis and treatment, education, training, or care of the mentally retarded, including research incidental or related to any of the foregoing activities, there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1964, \$7,500,000 for the fiscal year ending June 30, 1965, \$10,000,000 each for the fiscal year ending June 30, 1966, the fiscal year ending June 30, 1967, and the fiscal year ending June 30, 1968, and \$20,000,000 each for the fiscal year ending June 30, 1969, and the fiscal year ending June 30, 1970. Except as provided in subsection (b), the sums so appropriated shall be used for project grants for construction of public and other nonprofit facilities for the mentally retarded which are associated with a college or university.

(b)⁵ (1) Of the sums appropriated pursuant to subsection (a) for any fiscal year, beginning with the fiscal year ending June 30, 1968, an amount equal to 2 per centum thereof (or such smaller amount as the Secretary may determine to be appropriate) shall be available to the Secretary for the purpose of making grants to cover not to exceed 75 per centum of the costs of the planning of projects with respect to the construction of which applications for grants may be made under this part. Not more than \$25,000 shall be granted under this subsection with respect to any project.

(2) Planning grants under this subsection shall be made by the Secretary to such applicants and upon such terms and conditions as he shall by regulations prescribe. Payment of grants under this subsection shall be made in advance or by way of reimbursement, as the Secretary may determine.

(3) Whenever, in the succeeding provisions of this part, the term "grant", "grants", or "funds" is employed, such term shall be deemed not to include any grant under this subsection or any of the funds of any such grant.

APPLICATIONS

42 U.S.C. 2662

SEC. 122. Applications for grants under this part with respect to any facility may be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

(1) the facility will be associated, to the extent prescribed in regulations of the Secretary, with a college or university hospital (including affiliated hospitals), or with such other part of a college or

⁵ Subsec. 121(b) added by sec. 2(c) of P.L. 90-170.

university as the Secretary may find appropriate in the light of the purposes of this part;

(2) the plans and specifications are in accord with regulations prescribed by the Secretary under section 133(3);

(3) title to the site for the project is or will be vested in one or more of the agencies or institutions filing the application or in a public or other non-profit agency or institution which is to operate the facility;

(4) adequate financial support will be available for construction of the project and for its maintenance and operation when completed; and

(5) all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

49 Stat. 1011

63 Stat. 108

64 Stat. 1267

AMOUNT OF GRANTS; PAYMENTS

SEC. 123. (a) The total of the grants with respect to any project for the construction of a facility under this part may not exceed 75 per centum of the necessary cost of construction thereof as determined by the Secretary.

42 U.S.C. 2663

(b) Payments of grants under this part shall be made in advance or by way of reimbursement, in such installments consistent with construction progress, and on such conditions as the Secretary may determine.

RECOVERY

SEC. 124. If any facility with respect to which funds have been paid under this part shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not qualified to file an application under this part, or

42 U.S.C. 2664

(2) cease to be a public or other nonprofit facility for the mentally retarded, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for the mentally retarded,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for the mentally retarded, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects.

NONDUPLICATION OF GRANTS

58 Stat. 682
42 U.S.C. 201
note

SEC. 125.⁶ No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1963, and ending June 30, 1970, for construction of any facility for the mentally retarded described in this part, unless the Secretary determines that funds are not available under this part to make a grant for the construction of such facility.

42 U.S.C. 2665

PART C—GRANTS FOR CONSTRUCTION OF FACILITIES FOR THE MENTALLY RETARDED

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2671

SEC. 131.⁶ There are authorized to be appropriated, for grants for construction of public and other nonprofit facilities for the mentally retarded, \$10,000,000 for the fiscal year ending June 30, 1965, \$12,500,000 for the fiscal year ending June 30, 1966, \$15,000,000 for the fiscal year ending June 30, 1967, \$30,000,000 each for the fiscal year ending June 30, 1968, and the fiscal year ending June 30, 1969, and \$50,000,000 for the fiscal year ending June 30, 1970.

ALLOTMENTS TO STATES

42 U.S.C. 2672

SEC. 132. (a) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments from the sums appropriated under section 131 to the several States on the basis of (1) the population, (2) the extent of the need for facilities for the mentally retarded, and (3) the financial need of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, and Guam, for any fiscal year may be less than \$100,000. Sums so allotted to a State for a fiscal year for construction and remaining unobligated

⁶ Secs. 125 and 131 amended by secs. 2(c) and 3(a), respectively, of P.L. 90-170.

at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted, to such State for such next fiscal year.

(b) In accordance with regulations of the Secretary, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility for the mentally retarded in such other State. If it is found by the Secretary that construction of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part, to be used for the purpose referred to above.

(c) Upon the request of any State that a specified portion of its allotment under this part be added to the allotment of such State under part A of title II, and upon (1) the simultaneous certification to the Secretary by the State agency designated as provided in the State plan approved under this part to the effect that it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or (2) a showing satisfactory to the Secretary that the need for the community mental health centers in such State is substantially greater than for the facilities for the mentally retarded, the Secretary shall, subject to such limitations as he may by regulations prescribe, promptly adjust the allotments of such State in accordance with such request and shall notify such State agency and the State agency designated under the State plan approved under part A of title II, and thereafter the allotments as so adjusted shall be deemed the State's allotments for purposes of this part and part A of title II.

(d) ⁷ (1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 2 per centum of the total of the allotments of such State for a year, or \$50,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

⁷ Subsec. 132 (d) added by sec. 3 (c) of P.L. 90-170.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1967.

REGULATIONS

SEC. 133. Within six months after enactment of this Act, the Secretary shall, after consultation with the Federal Hospital Council (established by section 633 of the Public Health Service Act and hereinafter in this part referred to as the "Council"), by general regulations applicable uniformly to all the States, prescribe—

(1) the kinds of services needed to provide adequate services for mentally retarded persons residing in a State;

(2) the general manner in which the State agency (designated as provided in the State plan approved under this part) shall determine the priority of projects based on the relative need of different areas, giving special consideration to facilities which will provide comprehensive services for a particular community or communities;

(3) general standards of construction and equipment for facilities of different classes and in different types of location; and

(4) that the State plan shall provide for adequate facilities for the mentally retarded for persons residing in the State, and shall provide for adequate facilities for the mentally retarded to furnish needed services for persons unable to pay therefor. Such regulations may require that before approval of any application for a facility or addition to a facility is recommended by a State agency, assurance shall be received by the State from the applicant that there will be made available in such facility or addition a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

STATE PLANS

SEC. 134. (a) After such regulations have been issued, any State desiring to take advantage of this part shall submit a State plan for carrying out its purposes. Such State plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) hereof will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of State agencies concerned with planning, operation, or utilization of facilities for the mentally retarded and of nongovernment organizations or groups concerned with education, employment, rehabilitation, welfare, and health, and including representatives of consumers of the services provided by such facilities;

(4) set forth a program for construction of facilities for the mentally retarded (A) which is based on a statewide inventory of existing facilities and survey of need; (B) which conforms with the regulations prescribed under section 133(1); and (C) which meets the requirements for furnishing needed services to persons unable to pay therefor, included in regulations prescribed under section 133(4);

(5) set forth the relative need, determined in accordance with the regulations prescribed under section 133(2), for the several projects included in such programs, and provide for the construction, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(6) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(7) ⁸ provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities which receive Federal aid under this part and, effective July 1, 1969, provide for enforcement of such standards with respect to projects approved by the Secretary under this part after June 30, 1967;

(8) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(9) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford

⁸ Par. (7) of sec. 134 amended by sec. 5 of P.L. 90-170.

such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(10) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

APPROVAL OF PROJECTS

SEC. 135. (a) For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary through the State agency an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 133(3);

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(6) a certification by the State agency of the Federal share for the project.

The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (A) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages and overtime pay; (B) that the plans and specifications are in accord with the regulations prescribed pursuant to section 133; (C) that the application is in conformity with the State plan approved under section 134 and contains an assurance that in the operation of the facility there will be compliance with the applicable requirements of the State plan and of the regulations prescribed under section 133(4) for furnishing needed facilities for persons unable to pay therefor, and with State standards for operation and maintenance; and (D) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 133(2). No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing.

(b) Amendment of any approved application shall be subject to approval in the same manner as an original application.

WITHHOLDING OF PAYMENTS

SEC. 136. Whenever the Secretary after reasonable notice and opportunity for hearing to the State agency designated as provided in section 134(a) (1), finds—

(1) that the State agency is not complying substantially with the provisions required by section 134 to be included in its State plan or with regulations under this part;

(2) that any assurance required to be given in an application filed under section 135 is not being or cannot be carried out;

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 135; or

(4) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify the State agency that—

(5) no further payments will be made to the State from allotments under this part; or

(6) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (1), (2), (3), or (4) of this section,

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

SELECTED PUBLIC HEALTH LAWS

NONDUPLICATION OF GRANTS

SEC. 137.⁹ No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1964, and ending June 30, 1970, for construction of any facility for the mentally retarded described in this part, unless the Secretary determines that funds are not available under this part to make a grant for the construction of such facility.

PART D ¹⁰—GRANTS FOR THE COST OF PROFESSIONAL AND TECHNICAL PERSONNEL OF COMMUNITY MENTAL RETARDATION FACILITIES

AUTHORIZATION OF GRANTS

SEC. 141. (a) For the purpose of assisting in the establishment and initial operation of facilities for the mentally retarded providing all or part of a program of comprehensive services for the mentally retarded principally designed to serve the needs of the particular community or communities in or near which the facility is situated, the Secretary may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 144) of compensation of professional and technical personnel for the initial operation of new facilities for the mentally retarded or of new services in facilities for the mentally retarded.

(b) Grants for such costs for any facility for the mentally retarded under this part may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of four years and three months after such first day; and

⁹ Sec. 137 amended by sec. 3 (b) of P.L. 90-170.

¹⁰ Pt. D added by sec. 4 of P.L. 90-170.

such grants with respect to any such facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(c) In making such grants, the Secretary shall take into account the relative needs of the several States for services for the mentally retarded, their relative financial needs, and their populations.

SEC. 142 (a) Grants under this part with respect to any facility for the mentlly retarded may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the facility;

(2) (A) a grant was made under part C of this title to assist in financing the construction of the facility or (B) the type of service to be provided as part of such program with the aid of a grant under this part was not previously being provided by the facility with respect to which such application is made;

(3) the Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds for mental retardation services that would in the absence of such Federal funds be made available for (or under) the program described in paragraph (2) of this subsection, and will in no event supplant such State, local, and other non-Federal funds; and

(4) in the case of an applicant in a State which has in existence a State plan relating to the provision of services for the mentally retarded, the services to be provided by the facility are consistent with the plan.

(b) No grant may be made under this part after June 30, 1972, with respect to any facility for the mentally retarded or with respect to any type of service provided by such a facility unless a grant with respect thereto was made under this part prior to July 1, 1970.

PAYMENTS

SEC. 143. Payment of grants under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

REGULATIONS

SEC. 144. The Secretary shall prescribe general regulations concerning the eligibility of facilities under this part, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 142) for approving applications under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 145. There are authorized to be appropriated \$7,000,000 for the fiscal year ending June 30, 1968, \$10,000,000 for the fiscal year ending June 30, 1969, and \$14,000,000 for the fiscal year ending June 30, 1970, to enable the Secretary to make initial grants to facilities for the mentally retarded under the provisions of this part. For the fiscal year ending June 30, 1969, and each of the next five years, there are authorized to be appropriated such sums as may be necessary to make grants to such facilities which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

TITLE II—COMMUNITY MENTAL HEALTH CENTERS ¹¹

SHORT TITLE

SEC. 200. This title may be cited as the "Community Mental Health Centers Act".

Citation of
title

PART A—GRANTS FOR CONSTRUCTION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201.¹² There are authorized to be appropriated, for grants for construction of public and other nonprofit community mental health centers, \$35,000,000 for the fiscal year ending June 30, 1965, \$50,000,000 for the fiscal year ending June 30, 1966, \$65,000,000 for the fiscal year ending June 30, 1967, \$50,000,000 for the fiscal year ending June 30, 1968, \$60,000,000 for the fiscal year ending June 30, 1969, and \$70,000,000 for the fiscal year ending June 30, 1970.

42 U.S.C. 2681

ALLOTMENTS TO STATES

SEC. 202. (a) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments from the sums appropriated under section 201 to the several States on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, and Guam, for any fiscal year may be less than \$100,000. Sums so allotted to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted for such State for such next fiscal year.

42 U.S.C. 2682

(b) In accordance with regulations of the Secretary, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a community mental health center in such other State. If it is found by the Sec-

¹¹ Sec. 2(a) of P.L. 89-105 amended the heading of title II; added a new heading "Part A—Grants for Construction;" and changed the words "this title" wherever it appeared in sec. 201 through 207 to read "this part."

¹² Sec. 201 amended by sec. 2(a) of P.L. 90-31.

retary that construction of the center with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part to be used for the purpose referred to above.

(c) Upon the request of any State that a specified portion of its allotment under this part be added to the allotment of such State under part C of title I and upon (1) the simultaneous certification to the Secretary by the State agency designated as provided in the State plan approved under this part to the effect that it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion or (2) a showing satisfactory to the Secretary that the need for facilities for the mentally retarded in such State is substantially greater than for community mental health centers, the Secretary shall, subject to such limitations as he may by regulation prescribe, promptly adjust the allotments of such State in accordance with such request and shall notify such State agency and the State agency designated under the State plan approved under part C of title I, and thereafter the allotments as so adjusted shall be deemed the State's allotments for purposes of this part and part C of title I.

REGULATIONS

60 Stat. 1048
42 U.S.C. 291k
64 Stat. 446
42 U.S.C. 218

SEC. 203. Within six months after enactment of this Act, the Secretary shall, after consultation with the Federal Hospital Council (established by section 633 of the Public Health Service Act) and the National Advisory Mental Health Council (established by section 217 of the Public Health Service Act), by general regulations applicable uniformly to all the States, prescribe—

(1) the kinds of community mental health services needed to provide adequate mental health services for persons residing in a State;

42 U.S.C. 2683

(2) the general manner in which the State agency (designated as provided in the State plan approved under this part) shall determine the priority of projects based on the relative need of different areas, giving special consideration to projects on the basis of the extent to which the centers to be constructed thereby will, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, provide comprehensive mental health services (as determined by the Secretary in accordance with regulations) for mentally ill persons in a particular community or communities or which will be part of or closely associated with a general hospital;

(3) general standards of construction and equipment for centers of different classes and in different types of location; and

(4) that the State plan shall provide for adequate community mental health centers for people residing in the State, and shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor. Such regulations may require that before approval of an application for a center or addition to a center is recommended by a State agency, assurance shall be received by the State from the applicant that there will be made available in such center or addition a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

STATE PLANS

SEC. 204. (a) After such regulations have been issued, any State desiring to take advantage of this part shall submit a State plan for carrying out its purposes. Such State plan must— 42 U.S.C. 2684

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) hereof will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of non-government organizations or groups, and of State agencies, concerned with planning, operation, or utilization of community mental health centers or other mental health facilities, including representatives of consumers of the services provided by such centers and facilities who are familiar with the need for such services, to consult with the State agency in carrying out such plan;

(4) set forth a program for construction of community mental health centers (A) which is based on a statewide inventory of existing facilities and survey of need; (B) which conforms with the regulations prescribed by the Secretary under section 203(1); and (C) which meets the requirements for furnishing needed services to persons unable to pay therefor, included in regulations prescribed under section 203(4);

(5) set forth the relative need, determined in accordance with the regulations prescribed under section 203(2), for the several projects included in such programs, and provide for the construction, insofar

as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(6) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(7)¹³ provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this part and, effective July 1, 1969, provide for enforcement of such standards with respect to projects approved by the Secretary under this part after June 30, 1967;

(8) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(9) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(10) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

APPROVAL OF PROJECTS

42 U.S.C. 2685

SEC. 205. (a) For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary through the State agency an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 203(3);

¹³ Par. 7 of sec. 204 amended by sec. 4(b) of P.L. 90-31.

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the community mental health center;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

49 Stat. 1011

64 Stat. 1267
63 Stat. 108

(6) a certification by the State agency of the Federal share for the project.

The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (A) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages and overtime pay; (B) that the plans and specifications are in accord with the regulations prescribed pursuant to section 203; (C) that the application is in conformity with the State plan approved under section 204 and contains an assurance that in the operation of the center there will be compliance with the applicable requirements of the State plan and of the regulations prescribed under section 203(4) for furnishing needed services for persons unable to pay therefor, and with State standards for operation and maintenance; (D) that the services to be provided by the center, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is to be situated, at least those essential elements of comprehensive mental health services for mentally ill persons which are prescribed by the Secretary in accordance with regulations; and (E) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 203(2). No application shall

be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing.

(b) Amendment of any approved application shall be subject to approval in the same manner as an original application.

WITHHOLDING OF PAYMENTS

42 U.S.C. 2686

SEC. 206. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 204(a) (1), finds—

(1) that the State agency is not complying substantially with the provisions required by section 204 to be included in its State plan, or with regulations under this part;

(2) that any assurance required to be given in an application filed under section 205 is not being or cannot be carried out;

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 205; or

(4) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify the State agency that—

(5) no further payments will be made to the State from allotments under this part; or

(6) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (1), (2), (3), or (4) of this section.

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

NONDUPLICATION OF GRANTS

58 Stat. 682
42 U.S.C. 201
Note

SEC. 207.¹⁴ No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1964, and ending June 30, 1970, for construction of any facility described in this title, unless the Secretary determines that funds are not available under this title to make a grant for the construction of such facility.

42 U.S.C. 2687
79 Stat. 427
79 Stat. 428

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¹⁴ Sec. 207 amended by sec. 2(b) of P.L. 90-31.

PART B¹⁵—GRANTS FOR INITIAL COST OF PROFESSIONAL
AND TECHNICAL PERSONNEL OF CENTERS

AUTHORIZATION, DURATION, AND AMOUNT OF GRANTS

SEC. 220. (a) For the purpose of assisting in the establishment and initial operation of community mental health centers providing all or part of a comprehensive community mental health program, the Secretary may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 223) of compensation of professional and technical personnel for the initial operation of new community mental health centers or of new services in community mental health centers.

(b) Grants for such costs for any center under this part may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of four years and three months after such first day; and such grants with respect to any center may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(c) In making such grants, the Secretary shall take into account the relative needs of the several States for community mental health center programs, their relative financial needs, and their populations.

APPLICATIONS AND CONDITIONS FOR APPROVAL

SEC. 221. (a) Grants under this part with respect to any community mental health center may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the center;

(2) the services to be provided by the center, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is situated, at least those essential elements of comprehensive mental health services which are prescribed by the Secretary;

(3) (A) a grant was made under part A of this title to assist in financing the construction of the center or (B) the type of service to be provided as part of such program with the aid of a grant under

¹⁵ Sec. 2(b) of P.L. 89-105 added new pt. B, secs. 220-224.

this part was not previously being provided by the center with respect to which such application is made;

(4) the Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in paragraph (2) of this subsection, and will in no event supplant such State, local, and other non-Federal funds; and

(5) the services to be provided by the center are described in the State mental health plan submitted to the Public Health Service by the State mental health authority in accordance with title III of the Public Health Service Act.

42 U.S.C. 241 et seq.

Restriction

79 Stat. 428
79 Stat. 429

(b)¹⁶ No grant may be made under this part after June 30, 1970, with respect to any community mental health center or with respect to any type of service provided by such a center unless a grant with respect thereto was made under this part prior to July 1, 1970.

PAYMENTS

SEC. 222. Payment of grants under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

REGULATIONS

SEC. 223. The Secretary shall, after consultation with the National Advisory Mental Health Council (appointed pursuant to the Public Health Service Act), prescribe general regulations concerning eligibility of centers under this part, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 221) for approving applications under this part.

58 Stat. 682
42 U.S.C. 201
Note

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2688a

SEC. 224.¹⁷ There are hereby authorized to be appropriated \$19,500,000 for the fiscal year ending June 30, 1966, \$24,000,000 for the fiscal year ending June 30, 1967, \$30,000,000 for the fiscal year ending June 30, 1968, \$26,000,000 for the fiscal year ending June 30, 1969, and \$32,000,000 for the fiscal year ending June 30, 1970, to enable the Secretary to make initial grants to community mental health centers under the provisions of this part.

¹⁶ Sec. 221 (b) amended by sec. 3 (a) of P.L. 90-31.

¹⁷ Sec. 224 amended by sec. 3 (b) of P.L. 90-31.

For the fiscal year ending June 30, 1967, and each of the seven succeeding years, there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

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TITLE IV—GENERAL

DEFINITIONS

42 U.S.C. 2691

SEC. 401. For purposes of this Act—

(a) The term “State” includes Puerto Rico, Guam, American Samoa, the Virgin Islands, and the District of Columbia.

(b) The term “facility for the mentally retarded” means a facility specially designed for the diagnosis, treatment, education, training, or custodial care of the mentally retarded, including facilities for training specialists and sheltered workshops for the mentally retarded, but only if such workshops are part of facilities which provide or will provide comprehensive services for the mentally retarded.

(c) The term “community mental health center” means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated.

(d) The terms “nonprofit facility for the mentally retarded”, “nonprofit community mental health center”, and “nonprofit private institution of higher learning” mean, respectively, a facility for the mentally retarded, a community mental health center, and an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term “nonprofit private agency or organization” means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(e) ¹⁸ The term “construction” includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect’s fees, but excluding the cost of off-site improvements and the cost of the acquisition of land.

(f) The term “cost of construction” means the amount found by the Secretary to be necessary for the construction of a project.

¹⁸ Sec. 401(e) amended by sec. 4(b) of P.L. 90-31.

(g) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(h) The term "Federal share" with respect to any project means—

(1) if the State plan under which application for such project is filed contains, as of the date of approval of the project application, standards approved by the Secretary pursuant to section 402 the amount determined in accordance with such standards by the State agency designated under such plan; or

(2) if the State plan does not contain such standards, the amount (not less than $33\frac{1}{2}$ per centum and not more than either $66\frac{2}{3}$ per centum or the State's Federal percentage, whichever is the lower) established by such State agency for all projects in the State: *Provided*, That prior to the approval of the first such project in the State during any fiscal year such State agency shall give to the Secretary written notification of the Federal share established under this paragraph for such projects in such State to be approved by the Secretary during such fiscal year, and the Federal share for such projects in such State approved during such fiscal year shall not be changed after such approval.

(i) The Federal percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the Federal percentage for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be $66\frac{2}{3}$ per centum.

(j) (1) The Federal percentages shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation; except that the Secretary shall promulgate such percentages as soon as possible after the enactment of this Act, which promulgation shall be conclusive for the fiscal year ending June 30, 1965.

(2) The term "United States" means (but only for purposes of this subsection and subsection (i)) the fifty States and the District of Columbia.

(k) The term "Secretary" means the Secretary of Health, Education, and Welfare.

STATE STANDARDS FOR VARIABLE FEDERAL SHARE

42 U.S.C. 2692

SEC. 402. The State plan approved under part C of title I or title II may include standards for determination of the Federal share of the cost of projects approved in the State under such part or title, as the case may be. Such standards shall provide equitably (and, to the extent practicable, on the basis of objective criteria) for variations between projects or classes of projects on the basis of the economic status of areas and other relevant factors. No such standards shall provide for a Federal share of more than 66 $\frac{2}{3}$ per centum or less than 33 $\frac{1}{3}$ per centum of the cost of construction of any project. The Secretary shall approve any such standards and any modifications thereof which comply with the provisions of this section.

PAYMENTS FOR CONSTRUCTION

42 U.S.C. 2693

SEC. 403. (a) Upon certification to the Secretary by the State agency, designated as provided in section 134 in the case of a facility for the mentally retarded, or section 204 in the case of a community mental health center, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 136 or section 206, as the case may be, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) In case an amendment to an approved application is approved as provided in section 135 or 205 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

JUDICIAL REVIEW

SEC. 404. If the Secretary refuses to approve any application for a project submitted under section 135 or

42 U.S.C. 2694

205, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 134(b) or 204(b) or section 136 or 206, such State, may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

72 Stat. 941

62 Stat. 928

RECOVERY

SEC. 405. If any facility or center with respect to which funds have been paid under section 403 shall, at any time within twenty years after the completion of construction—

42 U.S.C. 2695

(1) be sold or transferred to any person, agency, or organization (A) which is not qualified to file an application under section 135 or 205, or (B) which is not approved as a transferee by the State agency designated pursuant to section 134 (in the case of a facility for the mentally retarded) or section 204 (in case of a community mental health center), or its successor; or

(2) cease to be a public or other nonprofit facility for the mentally retarded or community mental health center, as the case may be, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for

the mentally retarded or such center as a community mental health center, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility or center which has ceased to be public or other nonprofit facility for the mentally retarded or community mental health center, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment.

STATE CONTROL OF OPERATIONS

42 U.S.C. 2696

SEC. 406. Except as otherwise specifically provided, nothing in this Act shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for the mentally retarded or community mental health center with respect to which any funds have been or may be expended under this Act.

* * * * *

RECORDS AND AUDIT

SEC. 408.¹⁹ (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this Act.

¹⁹ Sec. 408 added by sec. 3 of P.L. 89-105.

TITLE V ²⁰—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

GRANTS; AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) The Secretary is authorized to make grants to public and other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as physical educators or recreation personnel for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)) or as supervisors of such personnel, or engaged or preparing to engage in research or teaching in fields related to the physical education or recreation of such children. 72 Stat. 1777;
77 Stat. 294

(b) For the purpose of making the grants authorized under subsection (a), there is authorized to be appropriated for the fiscal year ending June 30, 1968, \$1,000,000; for the fiscal year ending June 30, 1969, \$2,000,000; and for the fiscal year ending June 30, 1970, \$3,000,000. Any sums appropriated for any such fiscal year and not obligated before the end thereof shall remain available for the succeeding fiscal year for the purpose for which appropriated. Appropriation

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

SEC. 502. (a)(1) There is authorized to be appropriated for the fiscal year ending June 30, 1968, \$1,000,000, and for each of the two succeeding fiscal years, \$1,500,000, to enable the Secretary to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations, for research or demonstration projects relating to physical education or recreation for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)). Appropriation

(2) Grants under paragraph (1) shall be made in installments, in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

²⁰ Title V added by sec. 7 of P.L. 90-170.

(b) The Secretary shall from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of one such panel before making any grant under this section.

ADVISORY COMMITTEE

SEC. 503. (a) (1) The Secretary shall appoint an advisory committee which shall consist of seven members to advise him on matters of general policy relating to the administration of this title. Three members of such committee shall be individuals from the field of physical education, two members thereof shall be individuals from the field of recreation, and two members thereof shall be individuals with experience or special interest in the education of the mentally retarded or other handicapped children.

(2) The Secretary shall, from time to time, designate one of the members of such committee to serve as the chairman thereof.

(b) Members of the advisory committee and members of any panel appointed pursuant to section 502(b), who are not regular full-time employees of the United States, shall, while serving on the business of such committee or such panel, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

GRANTS FOR TEACHING IN THE EDUCATION OF MENTALLY RETARDED CHILDREN (ACT OF SEPTEMBER 6, 1958)

[PUBLIC LAW 85-926, AS AMENDED¹]

AN ACT To encourage expansion of teaching in the education of mentally retarded children through grants to institutions of higher learning and to State educational agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Education is authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing training of professional personnel to conduct training of teachers in fields related to education of mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereinafter in this chapter referred to as "handicapped children"). He is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other specialists providing special services for education of such children, or engaged or preparing to engage in research in fields related to education of such children. Grants under this section may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships, with such stipends as may be determined by the Commissioner of Education. The Commissioner is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in establishing and maintaining scholarships, with such stipends as may be determined by the Commissioner, for training personnel preparing to engage in employment as teachers of the deaf.

SEC. 2. The Commissioner of Education is also authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to public or other nonprofit institutions of higher learning, fellowships or traineeships for

¹ Secs. 1, 2, 3, 7, and 8, are amended by title III of P.L. 88-164. Sec. 8 is amended by title I of P.L. 90-247.

training personnel engaged or preparing to engage in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the costs of training such personnel.

SEC. 3. Payments of grants pursuant to this chapter may be made by the Commissioner of Education from time to time, in advance or by way of reimbursement, on such conditions as the Commissioner may determine.

SEC. 5. For purposes of this chapter—

(a) The term “nonprofit institution” means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) ² The term “State educational agency” means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools in the State.

(c) The term “State” includes the Commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and American Samoa.

SEC. 7.³ There are authorized to be appropriated for carrying out this chapter \$19,500,000 for the fiscal year ending June 30, 1966; \$29,500,000 for the fiscal year ending June 30, 1967; \$34,000,000 for the fiscal year ending June 30, 1968; \$37,500,000 for the fiscal year ending June 30, 1969, and \$55,000,000 for the fiscal year ending June 30, 1970.

SEC. 8.⁴ (a) There is authorized to be appropriated \$6,000,000 for the fiscal year ending June 30, 1966; \$9,000,000 for fiscal year ending June 30, 1967; \$12,000,000 for fiscal year ending June 30, 1968; \$14,000,000 for fiscal year ending June 30, 1969, and \$18,000,000 for the fiscal year ending June 30, 1970, to enable the Commissioner of Education to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, public and private institutions of higher learning, and other public or private educational or research agencies and organizations, for research and related purposes (as defined in this section) and to conduct research, surveys, or demonstrations, relating to education for mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special

² P.L. 89-105 amended sec. 5 by adding par. (c).

³ Section 7 amended by Sec. 6 of P.L. 90-170.

⁴ P.L. 89-105 amended sec. 8 by adding subsecs. (f)-(i), and by extending authorizations through fiscal year 1969.

education (hereinafter in this section referred to as "handicapped children"). Payments pursuant to grants or contracts under this section may be made in installments, in advance or by way of reimbursement, and on such conditions as the Commissioner of Education may determine.

(b) The Commissioner of Education is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to particular fields of education of handicapped children or relating to special services necessary thereto or special problems involved therein.

(c) The Commissioner of Education shall also from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of such a panel before making any such grant in the field in which such experts are competent.

(d) Members of any committee or panel appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of such committee or panel, be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding \$75 per day, including travel time; and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b—2 of Title 5 for persons in the Government service employed intermittently.

(e) The Commissioner of Education is authorized to delegate any of his functions under this section, except the promulgation of regulations, to any officer or employee of the Office of Education.

(f) For the purposes of this section the Commissioner of Education may make grants to institutions of higher education for the construction, equipping, and operation of a facility for research, or for research and related purposes (as defined in this section).

(g) All laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of any project under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(h) As used in this section the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees,

but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(i) As used in this section, the term "research and related purposes" means research, research training, surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools.

MISCELLANEOUS LAWS RELATING
TO INDIAN HEALTH

INDIAN HEALTH

[PUBLIC LAW 568—83D CONGRESS,¹ AS AMENDED²]

* * * * *

AN ACT To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are hereby transferred to, and shall be administered by, the Surgeon General³ of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

68 Stat. 674
42 U.S.C. 2001

SEC. 2. Whenever the health needs of the Indians can be better met thereby, the Secretary of Health, Education, and Welfare is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

42 U.S.C. 2002

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health, Education, and Welfare to a non-Indian entity or organization under this Act unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following

¹ Approved August 5, 1954.

² By P.L. 86-121, approved July 31, 1959.

³ Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General to the Secretary of Health, Education, and Welfare.

such transfer by the United States Public Health Service, the Secretary of Health, Education, and Welfare finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health, Education, and Welfare shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

42 U.S.C. 2003

SEC. 3. The Secretary of Health, Education, and Welfare is also authorized to make such other regulations as he deems desirable to carry out the provisions of this Act.

42 U.S.C. 2004

SEC. 4. The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health, Education, and Welfare hereunder, are transferred for use in the administration of the functions so transferred. Any of the personnel transferred pursuant to this Act which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

SEC. 5. The Act of April 3, 1952 (66 Stat. 35), and all other laws or parts of laws in conflict herewith, are hereby repealed.⁴

42 U.S.C.
2004(a)

SEC. 6. Sections 1 to 5, inclusive, of ⁵ this Act shall take effect July 1, 1955.

73 Stat. 267

SEC. 7. (a)⁶ In carrying out his functions under this Act with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements, and to acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from

⁴ That is, on the date of approval of P.L. 568, 83d Congress, August 5, 1954.

⁵ These first six words added by sec. 2 of P.L. 86-121.

⁶ Sec. 7 added by P.L. 86-121, approved July 31, 1959.

an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

(b) The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a): *Provided*, That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further*, That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

(c) The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section.

[PUBLIC LAW 85-151]

AN ACT To authorize funds available for construction of Indian health facilities to be used in the construction of community hospitals which will serve Indians and non-Indians

42 U.S.C. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Surgeon General¹ of the Public Health Service, in carrying out his functions under the Act of August 5, 1954 (68 Stat. 674), with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians.

71 Stat. 370
71 Stat. 371
42 U.S.C.
2005a

SEC. 2. The amount of such financial assistance shall not exceed that portion of the reasonable cost of the construction project which is attributable to the Indian health needs, as determined by the Surgeon General: *Provided*, That in determining, for the purposes of this Act, the portion of the cost of the construction project attributable to Indian health needs, the Surgeon General shall take into account only those categories of Indians for which hospital and medical care, including outpatient care and field health services, is being provided by or at the expense of the Public Health Service on the date of enactment of this Act.

42 U.S.C.
2005b

SEC. 3. As a condition to providing assistance under section 1, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under this Act and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under title VI of the Public Health Service Act (42 U.S.C., ch. 6A, subch. IV).

60 Stat. 1041 ;
42 U.S.C. 291-
291n

¹ Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General to the Secretary of Health, Education, and Welfare.

SEC. 4. The Surgeon General shall make payments under section 1 in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine. 42 U.S.C. 2005c

SEC. 5. Neither assistance provided under this Act for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under title VI of the Public Health Service Act or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under this Act shall not be included in the cost of construction in which the Federal Government shares under such title VI or other Federal Act. 42 U.S.C. 2005d

SEC. 6. As used in this Act:

(a) "Hospital" includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State. 42 U.S.C. 2005e

(c) "Nonprofit" means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Construction" means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land.

SEC. 7. Except as otherwise specifically provided, nothing in this Act shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under this Act. 42 U.S.C. 2005f

Approved August 16, 1957.



NARCOTIC ADDICT REHABILITATION ACT
OF 1966

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1901

NARCOTIC ADDICT REHABILITATION ACT

[PUBLIC LAW 89-793, APPROVED NOVEMBER 8, 1966]

AN ACT To amend title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addiction, and for other purposes.

80 Stat. 1438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That titles I, II, III, and IV of this Act may be cited as the "Narcotic Addict Rehabilitation Act of 1966".

Narcotic Addict
Rehabilitation
Act of 1966

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

TITLE I—CIVIL COMMITMENT IN LIEU OF PROSECUTION¹

SEC. 101. Title 28 of the United States Code is amended by adding after chapter 173 thereof the following new chapter:

62 Stat. 869

Chapter 175. Civil Commitment and Rehabilitation of Narcotic Addicts

SEC.

2901. Definitions.

2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment.

2903. Authority and responsibilities of the Surgeon General; institutional custody; aftercare; maximum period of civil commitment; credit toward sentence.

¹ Title I of this Act took effect February 8, 1967, and applies to any case pending in a district court of the United States in which an appearance had not been made prior to such effective date.

Sec.

2904. Civil commitment not a conviction; use of test results.
 2905. Delegation of functions by Surgeon General; use of Federal, State, and private facilities.
 2906. Absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment, not reviewable on appeal or otherwise.

§ 2901. Definitions

As used in this chapter—

68A Stat. 557;
 74 Stat. 57
 26 U.S.C. 4731

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Surgeon General" means the Surgeon General of the Public Health Service.

(c) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(d) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his anti-social tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

62 Stat. 684

(e) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

(f) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but do not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

(g) "Eligible individual" means any individual who is charged with an offense against the United States, but does not include—

(1) an individual charged with a crime of violence.

(2) an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug.

(3) an individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an individual who has been convicted of a felony on two or more occasions.

(5) an individual who has been civilly committed under this Act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions.

§ 2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment

(a) If the United States district court believes that an eligible individual is an addict, the court may advise him at his first appearance or thereafter at the sole discretion of the court that the prosecution of the criminal charge will be held in abeyance if he elects to submit to an immediate examination to determine whether he is an addict and is likely to be rehabilitated through treatment. In offering an individual an election, the court shall advise him that if he elects to be examined, he will be confined during the examination for a period not to exceed sixty days; that if he is determined to be an addict who is likely to be rehabilitated, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from the examination or any treatment which may follow; that the treatment may last for thirty-six months; that during treatment, he will be confined in an institution and, at the discretion of the Surgeon General, he may be conditionally released for supervised aftercare treatment in the community; and that if he successfully completes treatment the charge will be dismissed, but if he does not, prosecution on the charge will be resumed. An individual upon being advised that he may elect to submit to an examination shall be permitted a maximum of five days within which to make his election. Except on a showing that a timely election could not have been made, an individual shall be barred from an election after the prescribed period. An individual who elects civil commitment shall be placed in the custody of the Attorney General or the Surgeon General, as the court directs, for an examination by the Surgeon General during a period not to exceed thirty days. This period may, upon notice to the court and the appropriate United States attorney, be extended by the Surgeon General for an additional thirty days.

(b) The Surgeon General shall report to the court the results of the examination and recommend whether the individual should be civilly committed. A copy of the report shall be made available to the individual and the United States attorney. If the court, acting on the report and other information coming to its attention, determines that the individual is not an addict or is an addict not likely to be rehabilitated through treatment, the individual shall be held to answer the abeyant charge. If the court determines that the individual is an addict and is likely to be rehabilitated through treatment, the court shall commit him to the custody of the Surgeon General for treatment, except that no individual shall be committed under this chapter if the Surgeon General certifies that adequate facilities or personnel for treatment are unavailable.

(c) Whenever an individual is committed to the custody of the Surgeon General for treatment under this chapter the criminal charge against him shall be continued without final disposition and shall be dismissed if the Surgeon General certifies to the court that the individual has successfully completed the treatment program. On receipt of such certification, the court shall discharge the individual from custody and dismiss the charge against him. If prior to such certification the Surgeon General determines that the individual cannot be further treated as a medical problem, he shall advise the court. The court shall thereupon terminate the commitment, and the pending criminal proceeding shall be resumed.

(d) An individual committed for examination or treatment shall not be released on bail or on his own recognizance.

(e) Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

62 Stat. 734;
77 Stat. 834

§ 2903. Authority and responsibilities of the Surgeon General; institutional custody; aftercare; maximum period of civil commitment; credit toward sentence

(a) An individual who is committed to the custody of the Surgeon General for treatment under this chapter shall not be conditionally released from institutional custody until the Surgeon General determines that he has made sufficient progress to warrant release to a supervisory aftercare authority. If the Surgeon General is unable to make such a determination at the expiration of twenty-four months after the commencement of institutional custody, he shall advise the court and the appropriate United States attorney whether treatment

should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

(b) An individual who is conditionally released from institutional custody shall, while on release, remain in the legal custody of the Surgeon General and shall report for such supervised aftercare treatment as the Surgeon General directs. He shall be subject to home visits and to such physical examination and reasonable regulation of his conduct as the supervisory aftercare authority establishes, subject to the approval of the Surgeon General. The Surgeon General may, at any time, order a conditionally released individual to return for institutional treatment. The Surgeon General's order shall be a sufficient warrant for the supervisory aftercare authority, a probation officer, or any Federal officer authorized to serve criminal process within the United States to apprehend and return the individual to institutional custody as directed. If it is determined that an individual has returned to the use of narcotics, the Surgeon General shall inform the court of the conditions under which the return occurred and make a recommendation as to whether treatment should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

(c) The total period of treatment for any individual committed to the custody of the Surgeon General shall not exceed thirty-six months. If, at the expiration of such maximum period, the Surgeon General is unable to certify that the individual has successfully completed his treatment program the pending criminal proceeding shall be resumed.

(d) Whenever a pending criminal proceeding against an individual is resumed under this chapter, he shall receive full credit toward the service of any sentence which may be imposed for any time spent in the institutional custody of the Surgeon General or the Attorney General or any other time spent in institutional custody in connection with the matter for which sentence is imposed.

§ 2904. Civil commitment not a conviction; use of test results

The determination of narcotic addiction and the subsequent civil commitment under this chapter shall not be deemed a criminal conviction. The results of any tests or procedures conducted by the Surgeon General or the supervisory aftercare authority to determine narcotic addiction may only be used in a further proceeding under this chapter. They shall not be used against the examined individual in any criminal proceeding except that the fact that he is a narcotic addict may be elicited on his cross-examination as bearing on his credibility as a witness.

**§ 2905. Delegation of functions by Surgeon General;
use of Federal, State, and private facilities**

(a) The Surgeon General may from time to time make such provision as he deems appropriate authorizing the performance of any of his functions under this chapter by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals who elect civil commitment under this chapter.

**§ 2906. Absence of offer by the court to a defendant
of an election under section 2902(a) or any
determination as to civil commitment, not
reviewable on appeal or otherwise**

The failure of a court to offer a defendant an election under section 2902(a) of this chapter, or a determination relative to civil commitment under this chapter shall not be reviewable on appeal or otherwise.

TITLE II—SENTENCING TO COMMITMENT FOR TREATMENT ²

SEC. 201. Title 18 of the United States Code is amended by adding after chapter 313 thereof the following new chapter: 62 Stat. 683

CHAPTER 314—NARCOTIC ADDICTS

Sec.

4251. Definitions.

4252. Examination.

4253. Commitment.

4254. Conditional release.

4255. Supervision in the community.

§ 4251. Definitions

As used in this chapter—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

68A Stat. 557;
74 Stat. 57
26 U.S.C. 4731

(b) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(c) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his anti-social tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(d) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Com-

² Title II of this Act took effect February 8, 1967, and applies to any case pending in any court of the United States in which sentence had not been imposed prior to such effective date.

monwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

(e) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, and do not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

(f) "Eligible offender" means any individual who is convicted of an offense against the United States, but does not include—

(1) an offender who is convicted of a crime of violence.

(2) an offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

(3) an offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an offender on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an offender who has been convicted of a felony on two or more prior occasions.

(5) an offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

§ 4252. Examination

If the court believes that an eligible offender is an addict, it may place him in the custody of the Attorney General for an examination to determine whether he is and addict and is likely to be rehabilitated through treatment. The Attorney General shall report to the court within thirty days; or any additional period granted by the court, the results of such examination and make any recommendations he deems desirable. An offender shall receive full credit toward the service of his sentence for any time spent in custody for an examination.

§ 4253. Commitment

(a) Following the examination provided for in section 4252, if the court determines that an eligible offender is an addict and is likely to be rehabilitated through treat-

ment, it shall commit him to the custody of the Attorney General for treatment under this chapter, except that no offender shall be committed under this chapter if the Attorney General certifies that adequate facilities or personnel for treatment are unavailable. Such commitment shall be for an indeterminate period of time not to exceed ten years, but in no event shall it exceed the maximum sentence that could otherwise have been imposed.

(b) If, following the examination provided for in section 4252, the court determines that an eligible offender is not an addict, or is an addict not likely to be rehabilitated through treatment, it shall impose such other sentence as may be authorized or required by law.

§ 4254. Conditional release

An offender committed under section 4253(a) may not be conditionally released until he has been treated for six months following such commitment in an institution maintained or approved by the Attorney General for treatment. The Attorney General may then or at any time thereafter report to the Board of Parole whether the offender should be conditionally released under supervision. After receipt of the Attorney General's report, and certification from the Surgeon General of the Public Health Service that the offender has made sufficient progress to warrant his conditional release under supervision, the Board may in its discretion order such a release. In determining suitability for release, the Board may make any investigation it deems necessary. If the Board does not conditionally release the offender, or if a conditional release is revoked, the Board may thereafter grant a release on receipt of a further report from the Attorney General.

§ 4255. Supervision in the community

An offender who has been conditionally released shall be under the jurisdiction of the Board as if on parole under the established rules of the Board and shall remain, while conditionally released, in the legal custody of the Attorney General. The Attorney General may contract with any appropriate public or private agency or any person for supervisory aftercare of a conditionally released offender. Upon receiving information that such an offender has violated his conditional release, the Board, or a member thereof, may issue and cause to be executed a warrant for his apprehension and return to custody. Upon return to custody, the offender shall be given an opportunity to appear before the Board, a member thereof, or an examiner designated by the Board, after which the Board may revoke the order of conditional release.

TITLE III—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE³

Definitions

SEC. 301. For the purposes of this title, the term—

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

68A Stat. 557;
74 Stat. 57
26 U.S.C. 4731

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 302 of this title.

(f) "Posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 307 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife,

³ Title III of this Act took effect February 8, 1967.

father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

SEC. 302. (a) Except as otherwise provided in section 311 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

Petition for
treatment

(b) After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this title. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General and other appropriate State or local officials.

Commitment

(c) Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 303 of this title and for a hearing, if required, under section 304 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal.

Examination
of patient

SEC. 303. The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 302 of his right to have (1) counsel at every stage of the judicial proceedings under this title and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and

Right to counsel,
etc.

hearing as provided in this title, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this title. Copies of such reports shall be made available to the patient and his counsel.

Hearing

SEC. 304. (a) If both examining physicians (referred to in section 303) conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this title. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact

with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) In conducting any hearing under this title, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 303. Any patient with respect to whom a hearing is held under this title shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this title shall be subject to review in conformity with the provisions of sections 1254 and 1291 of title 28 of the United States Code.

Judicial review

(c) Any patient with respect to whom a hearing has been set under this title may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

62 Stat. 928, 929

(d) Witnesses subpoenaed by either party under the provisions of this title shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States.

Witness fees

SEC. 305. If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

Commitment by court order

SEC. 306. Any patient committed to the care and custody of the Surgeon General pursuant to section 305 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 307 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

Release

SEC. 307. (a) Whenever any patient under the care and custody of the Surgeon General pursuant to this title is to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's release, promptly return him to that

Posthospitalization treatment; Recommendations of Surgeon-General

court. The court, after considering the recommendations of the Surgeon General with respect to posthospitalization treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

(b) If, at any time during such three-year period, any patient (1) fails or refuses to comply with the directions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section.

SEC. 308. The court, upon the petition of any patient after his confinement pursuant to this title for a period in excess of three months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 307 of this title.

SEC. 309. Any determination by the court pursuant to this title that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic addiction of any patient under this title shall not be used against such patient in any criminal proceeding.

SEC. 310. Any physician conducting an examination under this title shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this title and the physician-patient privilege shall not be applicable.

SEC. 311. The provisions of this title shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such

Petition by
patient

Physician, com-
pellable witness

person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

SEC. 312. Notwithstanding any other provision of this title, no patient shall be committed to a hospital of the Service under this title if the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable.

SEC. 313. Physicians appointed by the court to examine any person pursuant to this title and counsel assigned by the court to represent any person in judicial proceedings under this title shall be entitled to reasonable compensation, in an amount to be determined by the court, to be paid, upon order of the court, out of such funds as may be provided by law.

Appointed physicians and counsel, compensation

SEC. 314. (a) The Surgeon General may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions under this title by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

Delegation of functions

(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this title.

SEC. 315. Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this title, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

Penalties

SEC. 316. Any person who knowingly makes any false statement to the United States attorney in any petition under section 302(a) of this title shall be subject to the penalty prescribed in section 1001 of title 18, United States Code.

62 Stat. 734;
77 Stat. 834

62 Stat. 749

TITLE IV—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

SEC. 401. The Surgeon General is authorized to establish, as an integral part of the program of treatment for narcotic addiction authorized by section 341 of the Public Health Service Act, outpatient services to (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies, and (2) assist States and municipalities in developing treatment programs and facilities for individuals so addicted, including posthospitalization treatment programs and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General shall take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound program for the care, treatment, and rehabilitation of narcotic addicts.

Appropriation

SEC. 402. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1966, and for the succeeding fiscal year, the sum of \$15,000,000 to enable the Surgeon General (1) to make grants to States and political subdivisions thereof and to private organizations and institutions (A) for the development of field testing and demonstration programs for the treatment of narcotic addiction, (B) for the development of specialized training programs or materials relating to the provision of public health services for the treatment of narcotic addiction, or the development of in-service training or short-term or refresher courses with respect to the provision of such services, (C) for training personnel to operate, supervise, and administer such services, and (D) for the conducting of surveys evaluating the adequacy of the programs for the treatment of narcotic addiction within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (2) to enter into jointly financed cooperative arrangements with State and local governments and public and private organizations and institutions with a view toward the developing, constructing, operating, staffing, and maintaining of treat-

ment centers and facilities (including posthospitalization treatment centers and facilities) for narcotic addicts within the States.

(b) Payments under this section may be made in advance or by way of reimbursement, as determined by the Surgeon General, and shall be made on such conditions as the Surgeon General determines to be necessary to carry out the purposes of this title.

(c) The Surgeon General is authorized to issue appropriate rules and regulations to carry out the provisions of this title.

TITLE V—SENTENCING AFTER CONVICTION FOR VIOLATION OF LAW RELATING TO NARCOTIC DRUGS OR MARIHUANA ⁴

SEC. 501. Section 7237(d) of the Internal Revenue Code of 1954, as amended, is amended to read as follows:

(d) No SUSPENSION OF SENTENCE; No PROBATION; ETC.—Upon conviction—

(1) of any offense the penalty for which is provided in subsection (b) of this section, subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, or

(2) of any offense the penalty for which is provided in subsection (a) of this section, if it is the offender's second or subsequent offense,

the imposition or execution of sentence shall not be suspended, probation shall not be granted and in the case of a violation of a law relating to narcotic drugs, section 4202 of title 18, United States Code, and the Act of July 15, 1932 (47 Stat. 696; D.C. Code 24-201 and following), as amended, shall not apply.

SEC. 502. The Board of Parole is hereby directed to review the sentence of any prisoner who, before the enactment of this Act, was made ineligible for parole by section 7237(d) of the Internal Revenue Code of 1954, as amended, and who was convicted of a violation of a law relating to marihuana. After conducting such review the Board of Parole may authorize the release of such prisoner on parole pursuant to section 4202 of title 18, United States Code. Action taken by the Board of Parole under this section shall not cause any prisoner to serve a longer term than would be served under his original sentence.

⁴ Title V of this Act took effect February 8, 1967, and applies to any case pending in any court of the United States in which sentence had not yet been imposed.

70 Stat. 568
26 U.S.C. 7237

70 Stat. 570, 571
21 U.S.C. 174,
176a, 176b
55 Stat. 584;
70 Stat. 571
21 U.S.C. 184a

65 Stat. 150

Board of Parole,
review of sen-
tences

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601.⁵ * * *.

SEC. 602. The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

SEC. 603. The table of contents to "PART III.—PRISONS AND PRISONERS" of title 18, United States Code, is amended by inserting after

313. Mental defectives..... 4241

a new chapter reference as follows:

314. Narcotic addicts..... 4251

and the table of contents to "PART VI.—PARTICULAR PROCEEDINGS" of title 28, United States Code, is amended by inserting after

173. Attachment in postal suits..... 2710

a new chapter reference as follows:

175. Civil commitment and rehabilitation of narcotic addicts..... 2901

SEC. 604. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Separability

SEC. 605. Title I of this Act shall take effect three months after the date of its enactment, and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II and V of this Act shall take effect three months after the date of its enactment and shall apply to any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act shall take effect three months after the date of its enactment.

Effective dates

⁵ Sec. 601 of P.L. 89-793 amends sec. 341 of the Public Health Service Act.

31 F. R. 8855

Appropriation

SEC. 606. The provisions of this Act shall be subject to the provisions of Reorganization Plan No. 3 of 1966.⁶

SEC. 607. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

⁶ Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General, and other officers of the Public Health Service, to the Secretary of Health, Education, and Welfare. The provisions of this Act should be read in the light of this transfer of statutory functions.

APPENDIX

* * * * *

REORGANIZATION PLAN No. 1 OF 1953

(Approved April 1, 1953)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECTION 1. *Creation of Department; Secretary.*—

5 U.S.C.
Supp. I, Note

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 2.¹ *Under Secretary and Assistant Secretaries.*—

There shall be in the Department an Under Secretary of Health, Education, and Welfare and five ² Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of

¹ Sec. 2 amended and sec. 3 deleted by sec. 4 of P.L. 89-115.

² Sec. 1(b) of P.L. 89-234, provided for an additional Assistant Secretary of HEW, but did not specifically amend P.L. 83-13.

the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 3.¹ * * *.

SEC. 4. *Commissioner of Social Security.*—There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended.

SEC. 5. *Transfers to the Department.*—All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

SEC. 6. *Performance of functions of the Secretary.*—The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

SEC. 7. *Administrative services.*—In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

SEC. 8. *Abolitions.*—The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. 1 (53 Stat. 1423), the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan

¹ Effective June 25, 1966, under the provisions of section 6 of the Act; published pursuant to section 11 of the Act (63 Stat. 203; 5 U.S.C. 133z).

No. 2 of 1946 (60 Stat. 1095), and the office of Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558), are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and the offices abolished by this section which are not otherwise provided for in this reorganization plan.

SEC. 9. *Interim provisions.*—The President may authorize the persons who immediately prior to the time this reorganization plan take effect occupy the offices of Federal Security Administration, Assistant Security Administrator, assistant heads of the Federal Security Agency, the Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

REORGANIZATION PLAN NO. 3 OF 1966

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.¹

PUBLIC HEALTH SERVICE

SECTION 1. *Transfer of functions*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SEC. 2. *Performances of transferred functions*—The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the

¹ Effective June 25, 1966, under the provisions of section 6 of the Act; published pursuant to section 11 of the Act (63 Stat. 203; 5 U.S.C. 133z).

provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. *Abolitions*—(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. *Incidental transfers*—As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

TABLE A.—SOME MAJOR AMENDMENTS OF THE PUBLIC HEALTH SERVICE ACT SINCE 1944¹

Title ²	Public law ³	Purpose of the act ⁴
1. National Mental Health Act.....	P.L. 79-487, July 3, 1946 (60 Stat. 421)	To amend the PHS Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes.
2. Hospital Survey and Construction Act.....	P.L. 79-725, Aug. 13, 1946 (60 Stat. 1040)	To amend the PHS Act to authorize grants to the States for surveying their hospitals and public health centers and for planning construction of additional facilities, and to authorize grants to assist in such construction.
3. National Heart Act.....	P.L. 80-655, June 16, 1948 (62 Stat. 464)	To amend PHS Act to support research and training in diseases of the heart and circulation, and to aid the States in the development of community programs for the control of these diseases, and for other purposes.
4. National Dental Research Act.....	P.L. 80-755, June 24, 1948 (62 Stat. 598)	To amend the PHS Act to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, and for other purposes.
5. Hospital Survey and Construction Amendments of 1949.....	P.L. 81-380, Oct. 25, 1949 (63 Stat. 898)	To amend the Hospital Survey and Construction Act (Title VI of the PHS Act) to extend its duration and provide greater financial assistance in the construction of hospitals, and for other purposes.
6. (No authorized title—act authorizes establishment of research institutes; also adds sec. 208(g) to PHS Act.)	P.L. 81-692, Aug. 15, 1950 (64 Stat. 443)	To amend the PHS Act to support research and training in matters relating to arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases.
7. Medical Facilities Survey and Construction Act of 1954.....	P.L. 83-482, July 12, 1954 (68 Stat. 461)	To amend the hospital survey and construction provisions of the PHS Act to provide assistance to the States for surveying the need for diagnostic or treatment centers, for hospitals for the chronically ill and impaired, for rehabilitation facilities, and for nursing homes, and to provide assistance in the construction of such facilities through grants to public and nonprofit agencies, and for other purposes.
8. National Health Survey Act.....	P.L. 84-652, July 3, 1956 (70 Stat. 489)	To provide for a continuing survey and special studies of sickness and disability in the United States, and for periodic reports of the results thereof, and for other purposes.
9. Alaska Mental Health Enabling Act.....	P.L. 84-830, July 28, 1956 (70 Stat. 709)	To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibilities for the hospitalization of committed mental patients, and for other purposes. (Includes PHS grants to Alaska for mental health program.)
10. Health Research Facilities Act of 1956.....	P.L. 84-835, July 30, 1956 (70 Stat. 717)	To amend the PHS Act so as to provide for grants-in-aid to non-Federal public and nonprofit institutions for the constructing and equipping of facilities for research in the sciences related to health.
11. National Library of Medicine Act.....	P.L. 84-941, Aug. 3, 1956 (70 Stat. 960)	To amend title III of the PHS Act, and for other purposes. (Establishes in the PHS the National Library of Medicine.)
12. Health Amendments Act of 1956.....	P.L. 84-911, Aug. 2, 1956 (70 Stat. 923)	To improve the health of the people by assisting in increasing the number of adequately trained professional and practical nurses and professional public health personnel assisting in the development of improved methods of care and treatment in the field of mental health, and for other purposes.
13. Public Health Service Commissioned Corps Personnel Act	P.L. 86-415, Apr. 8, 1960 (74 Stat. 32)	To strengthen the Commissioned Corps of the Public Health Service through revision and extension of some of the provisions relating to retirement, appointment of personnel, and other related personnel matters, and for other purposes.

See footnotes at end of table, p. 315.

TABLE A.—SOME MAJOR AMENDMENTS OF THE PUBLIC HEALTH SERVICE ACT SINCE 1944¹

Title ²	Public law ³	Purpose of the act ⁴
14. International Health Research Act of 1960	P.L. 86-610, July 12, 1960 (74 Stat. 364)	* * * to provide for international cooperation in health research, research training, and research planning, and for other purposes. (Note: By error there was left in the purpose clause the phrase "to establish a National Institute for International Health and Medical Research," although, as enacted, the law carried no such provision. We have used asterisks in lieu of that phrase to prevent confusion.)
15. Community Health Services and Facilities Act of 1961	P.L. 87-395, Oct. 5, 1961 (75 Stat. 824)	To assist in expanding and improving community facilities and services for the health care of aged and other persons, and for other purposes.
16. (No authorized title—provides for PHS grants for family health clinics for migratory workers).	P.L. 87-692, Sept. 25, 1962 (76 Stat. 592)	To amend title III of the PHS Act to authorize grants for family clinics for domestic agricultural migratory workers, and for other purposes.
17. (No authorized title—provides for establishment of an Institute of Child Health and Human Development and an Institute of General Medical Sciences; extends for 3 years research facilities construction program of title VII, PHS Act).	P.L. 87-833, Oct. 17, 1962 (76 Stat. 1072)	To amend the PHS Act to provide for the establishment of an Institute of Child Health and Human Development, to extend for 3 additional years the authorization for grants for the construction of facilities for research in the sciences related to health, and for other purposes.
18. Vaccination Assistance Act of 1962	P.L. 87-868, Oct. 23, 1962 (76 Stat. 1155)	To assist States and communities to carry out intensive vaccination programs designed to protect their populations, particularly all preschool children, against poliomyelitis, diphtheria, whooping cough, and tetanus.
19. Health Professions Educational Assistance Act of 1963	P.L. 88-129, Sept. 24, 1963 (77 Stat. 164)	To increase the opportunities for training of physicians, dentists, and professional public health personnel, and for other purposes.
20. Sec. 101 of the Mental Retardation Facilities and Community Health Centers Construction Act of 1963.	P.L. 88-164, Oct. 31, 1963 (77 Stat. 282)	To provide centers for research on mental retardation and related aspects of human development.
21. Hospital and Medical Facilities Amendments of 1964	P.L. 88-443, Aug. 18, 1964 (78 Stat. 447)	To improve the public health through revising, consolidating, and improving the hospital and other medical facilities provisions of the Public Health Service Act.
22. Nurse Training Act of 1964	P.L. 88-581, Sept. 4, 1964 (78 Stat. 908)	To amend the Public Health Service Act to increase the opportunities for training professional nursing personnel, and for other purposes.
23. Community Health Services Extension Amendments of 1965	P.L. 89-109, Aug. 5, 1965 (79 Stat. 435)	To extend and otherwise amend certain expiring provisions of the Public Health Service Act relating to community health services, and for other purposes.
24. Health Research Facilities Amendments of 1965	P.L. 89-115, Aug. 9, 1965 (79 Stat. 448)	To amend the Public Health Service Act provisions for construction of health research facilities by extending the expiration date thereof and providing increased support for the program, to authorize additional Assistant Secretaries in the Department of Health, Education, and Welfare, and for other purposes.

25. Heart Disease, Cancer, and Stroke Amendments of 1965 P.L. 89-239, Oct. 6, 1965 (79 Stat. 926)
 26. Health Professions Educational Assistance Amendments of 1965 P.L. 89-290, Oct. 22, 1965 (79 Stat. 1052)
 27. Medical Library Assistance Act of 1965 P.L. 89-291, Oct. 22, 1965 (79 Stat. 1059)
 28. Comprehensive Health Planning and Public Health Services Amendments of 1966 P.L. 89-749, Nov. 3, 1966
 29. Allied Health Professions Personnel Training Act of 1966 P.L. 89-751, Nov. 3, 1966
 30. Partnership for Health Amendments of 1967 P.L. 90-174, Dec. 5, 1967

¹ This table includes only major amendments which have made significant or extensive changes in the P.H.S. Act. It does not purport to be a comprehensive listing of all amendments of that Act.

² As authorized in the Act, except where noted.

³ Since the 85th Cong., each public law has carried a prefix which is the number of the Congress in which it was enacted. Thus, P.L. 85-480 is Public Law 480 of the 85th Cong. For convenience, the

references to public laws contained herein have been conformed to this new practice. The dates cited herein are the dates of Presidential approval of the Act, and are not necessarily the dates of effectiveness of specific provisions of law. The parenthetical citations are to the United States Statutes at Large.

⁴ Quoted from the purpose clause of the public law.



**Public Health Service Act
Short Title (Title I)**

Administration (Title II)

**General Powers and Duties (Title
III)**

**National Research Institutes
(Title IV)**

Miscellaneous (Title V)

Hospital Construction (Title VI)

**Health Research and Teaching Fa-
cilities (Title VII)**

Nurse Training (Title VIII)

Heart, Cancer and Stroke (Title IX)

Other Laws:

Clean Air

Solid Waste Disposal

**Mental Retardation and
Mental Health**

Indian Health

Narcotic Addict Rehabilitation

Appendix

To use this index, bend the pub-
lication over and locate the de-
sired section by following the
black markers.

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